

Moreno, Blanca

From: Jonathan Paton
Sent: Friday, July 5, 2019 9:16 AM
To: Moreno, Blanca
Subject: Fw: Bill Montgomery

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From: Steve Twist
Sent: Wednesday, July 3, 2019 8:38 AM
To: Jonathan Paton
Subject: Bill Montgomery

Dear Jonathan,
This note is about Bill Montgomery. It is my hope that you will share this with your colleagues on the Commission.

I first met Bill as his professor when he took my class on Victims in Criminal Procedure, which I have taught at the ASU Law School since 2001. Bill was in my first class, Spring Semester of that year. As Bill told me, he took the class to make sure he could protect the rights of all involved in the criminal justice system, defendants as well as victims. He was an outstanding student, in my class and in law school overall. I'm certain his biography will be well known to the commissioners: challenging childhood raised in gang-ridden neighborhoods with a dad who went to prison, but whose mom was loving and encouraging, West Point graduate, decorated tank platoon leader in Desert Storm (where he notes he is most proud of the fact he got each of his troops home safely), Order of the Coif and magna cum laude graduate of ASU Law, prosecutor and private lawyer who twice left the private practice of law to care for a dying parent (first his Mom and later his father with whom he reconciled before his father passed), loving husband and father, three-time elected County Attorney who restored dignity, respect, and honor to the Maricopa County Attorney's Office and, under whose leadership, balance has been restored among all the agencies of county government. He has been a national award-winning leader of his office and respected among his peers across the country of every political persuasion.

I have known Bill for 18 years. He is nothing like the false caricature his critics are painting. That caricature is far more a reflection of the current political landscape and utterly detached from Bill's actual character and accomplishments. While the critics may be able to generate enthusiasm and raise money from their supporters with the narrative they are pushing, the false representations rob the Commission of objective and fair input for what Bill has actually accomplished in office for the community he serves.

He is an outstanding lawyer with rigorous intellectual skills. I know from personal experience that he is an excellent researcher and writer with a commitment to objective facts. He is principled, but not arch. He is tolerant and respectful of others and I have seen this first hand. During a public debate over a statewide initiative, he was viciously attacked and his personal character and honor challenged. Bill refused to respond in kind and maintained what any lawyer would fairly call the type of judicial temperament and demeanor that encourages confidence in our judicial system. His commitment to the rule of law is grounded in his deep commitment to the ethical standards that prosecutors must follow; to do justice, not just win cases. In fact, he passes out the following quotation from the 1935 case of *Berger v. United States* to every new prosecutor at the end of their initial training:

The [Prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all, and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the two-fold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor -- indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

When he takes an oath he means it. Duty Honor Country is not just the motto of his West Point alma mater, they are the very guideposts for his personal and professional life. He has a servant's heart.

Bill will exemplify the essential qualities for judges first laid out by Alexander Hamilton in Federalist 78. They must "have sufficient skill in the laws to qualify them for the stations of judges." And they must unite "the requisite integrity with the requisite knowledge." Knowledge and integrity define Bill. Moreover, he will not "substitute (his) own pleasure to the constitutional intentions of the legislature." He will exercise "judgment" and not "will." He understands the value of a truly independent judiciary, itself constrained by the constitutions of the United States and of Arizona.

In what passes for public discourse these days, the motivations or reasons behind actions of public officials are quickly assigned to categories of ideology without even the slightest acknowledgment that an official may very well be motivated by nothing more than a commitment to doing their duty on behalf of the people they serve. Bill is just such an official. I hope the commissioners will see past the false claims against Bill and see him for the good man and fine lawyer that he is. He is more than qualified to be added to the list for the Governor's consideration, among other qualified candidates to be sure.

Sincerely,
Steve Twist

Steven J. Twist
Vice President and General Counsel
Services Group of America
Mailing Address:
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L125
BY FAX
MOBILE

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Administrative Office of the Courts
Commission on Appellate Court Appointments
c/o Human Resources Department
1501 W. Washington, Suite 221
Phoenix, AZ 85007

Re: Supreme Court Nomination Recommendation—William Montgomery

19 June 2019

To Members of the Commission:

I write again to offer my enthusiastic support for the nomination of William (Bill) Montgomery to the Arizona Supreme Court. Bill receives my highest and absolute unequivocal recommendation.


As past Chief Executive Officer of the State Bar of Arizona, I had the opportunity to know and work with Bill throughout my ten-year tenure. I know him well—personally and professionally. He is not only an exceedingly talented lawyer, he is also an extraordinary leader. Serving in a high-profile position, and one that is naturally subject to occasional public criticism, Bill has been a model of humility, professionalism and respect. He listens to all sides and makes decisions based on the law, not what is politically expedient or personally appealing. In short, he exercises the kind of judgment expected of a justice on Arizona's Supreme Court.

At the risk of repeating my previous recommendation, Bill's commitment and contributions to the State Bar have been significant. In addition to his own personal involvement as CLE faculty and a member of several bar task forces, he encourages participation by lawyers from his office. Through his leadership, the Bar has benefitted significantly from a positive and productive relationship with the Maricopa County Attorney's Office.

I understand from his last application, the commission received a number of negative communications from some members of the Bar regarding Bill's work with the Bar's Rule 8.4 task force. The task force considered a number of controversial changes to the Rule, regarding sexual identity and expression. I served on the task force and observed Bill's participation and input to be completely professional and respectful. I don't presume to know how much this matter may have affected consideration of his last application, but the fact that he demonstrates respect for those who might disagree with his legal analysis would make him well suited for service on our Court's bench.

Lastly, as a fellow Army veteran, I think Bill's lifelong commitment to honorable service that began when he entered the U.S. Military Academy at West Point as a young cadet and continues to this day, should be considered by the Commission as it examines his character. Duty, Honor, Country is part of Bill's DNA. I have no doubt that he will faithfully and impartially discharge the duties of Justice of the Arizona Supreme Court.

Sincerely,

 John F. Phelps

CALDERÓN

June 23, 2019

Sent Via Electronic Mail

Chief Justice Scott Bales and
Arizona Commission on Appellate Court Appointments
Commissions on Appellate and Trial Court Appointments
1501 West Washington Street, Suite 221
Phoenix, Arizona 85007

Re: William Montgomery Applicant for Arizona Supreme Court

Dear Chief Justice Bales and Commissioners:

I write, as a former president of the State Bar of Arizona, as a former two-term member of this Appellate Commission and as a thirty-seven-year lawyer practicing in Arizona, in support of William ("Bill") Montgomery's application to serve on the Arizona Supreme Court. Bill is eminently qualified to serve on the Court and I ask that you advance his name to Governor Douglas Ducey. I am attaching my previous letter in support with the following update.

Bill is fundamentally fair. I have read the comments critical of Mr. Montgomery and reject them as a distortion of his character. I share the political beliefs of some of Mr. Montgomery's critics. However, I strongly disagree with them as to his alleged unfairness and prejudice. I would not support Mr. Montgomery's application if a scintilla of what his detractors said was true. Mr. Montgomery is an elected official in a difficult job that forces him to make tough decisions. Those decisions will anger some and please others. That is part of his job. He should not be penalized because of his public service. It is important that our high court include individuals who have served in the public square and done so with courage despite dissent.

Based on my experience as a member of the Appellate Commission, Mr. Montgomery is exceptionally qualified to serve on our high court. Please forward his name to the Governor. I stand ready to address any of your concerns.

Very truly yours,

Ernest Calderón

Enclosure

July 5, 2019

Commission on Appellate Court Appointments

Re: Application of William Montgomery

Dear Commission Members,

I would like to supplement my January 29 letter in support of Bill Montgomery's judicial application.

I am compelled to write this in light of the effort to thwart his application by those who have disseminated incorrect and biased information.

In the decade plus that I have known and worked with Bill Montgomery, I have had occasion to staff a myriad of issues with him, including many of the issues that his opponents have attacked him on. I can tell you emphatically that his decisions on these issues were based on the facts and circumstances, not on his personal beliefs or any political motivations. Indeed, many of these decisions were made knowing there could be a political cost.

Prosecutorial integrity is the primary value of the Maricopa County Attorney's Office from the top down. In the more than thirty years that I have been a prosecutor, prosecutors have never been held more accountable than they are by Mr. Montgomery's administration. Validated claims of unprofessional conduct are dealt with as the circumstances and applicable rules deem appropriate. Claims that prosecutorial misconduct is rampant in this office are irresponsible, absolutely untrue and offensive to the more than 300 prosecutors who strive and succeed every day under crushing caseloads to do the right thing.

This Commission should make a decision rooted in facts, which have been presented to you, even when others do not.

Sincerely,

.

Barbara Marshall

cc: [redacted]



July 12, 2019

Arizona Commissions on Appellate Court Appointments
1501 West Washington Street, Suite 221
Phoenix, Arizona 85007
Via email at jnc@courts.az.gov

Dear Chief Justice Brutinel and Commissioners:

I write in support of Bill Montgomery as a candidate for the Arizona Supreme Court.

Over a twenty year legal career in Arizona, I have litigated, lobbied, and advocated from an orthodox Christian perspective on some of the most contentious social, moral, and constitutional issues of our time: whether an unborn child has a right to be born; the bounds of religious freedom and free speech; the nature of marriage; and most recently, the nature of the human species itself, specifically whether the terms “male” or “female” have objective, knowable meaning under the law.

For the purposes of this letter, the merits of those issues are neither here nor there. But what is relevant is the degree of controversy that is generated by the issues—not just from an occasional overzealous activist (such as may be found on either side of many issues) but unfortunately sometimes from within our profession when a few who are personally invested in the issue may bring a bit too much vigor to their arguments. Each of these subject matter areas is certainly a “hot button,” high profile, and hotly contested issue in our nation.

Over the past decade, I would occasionally cross paths with Mr. Montgomery when Maricopa County operations would intersect our issues. Through those interactions I formed the opinion that Bill was something of a lawyer’s lawyer: precise, controlled, personally engaging yet often a bit reserved. His questions would be focused and precise; his analysis direct and concise. In short, he seemed to be an advocate that you could respect and trust regardless of whether his view on a given issue was contrary, congruent, or neutral in respect to yours.

But in 2012, I found my viewpoint of Bill shifting from a rather broad and distant panorama to more of a microscopic view, when both of us were asked to serve among a diverse group of about 20 attorneys serving on the Arizona State Bar “Task Force on ER 8.4.”

Rule 8.4 governs discipline for misconduct. In 2003 it was amended to add Comment 3, which among other things asserted that manifestations of prejudice or bias in respect to “gender identity” could provide a basis for disciplinary action against an attorney. In 2011, proponents of gender identity theory petitioned the Arizona Supreme Court to move the non-binding comment into the binding text of Rule 8.4. In turn, the Bar formed the Task Force to inform its recommendation on that proposal (which it ultimately supported).

The proposal was controversial, as gender identity touches on numerous legal and cultural issues: compelled speech under the First Amendment; bodily privacy issues; sex harassment and sex-specific sports leagues under Title IX; and employment law. Simply put, gender identity theory postulates that our sex—whether one is female or male—is determined not by objective reproductive physiology, but by an unprovable, subjective, malleable continuum of perceived masculinity, femininity, neither, or both.

The Bar prudently selected attorneys representing a broad range of views including pro- and con- advocates drawn from the ranks of GLBTQ advocacy groups and conservative organizations such as mine; practitioners who were more rank-and-file who would be impacted by the change but not necessarily taking a stance on its social or legal worth; and at least one participant who claimed a gender identity discordant from his sex—which is to say a male who professed a feminine identity.

With such an array of views in the room, lengthy and vigorous debate ensued.

Vigorous. And lengthy.

Yet to the credit of all—even when strong emotions came forward—I think it safe to say that we conducted ourselves with civility and courtesy. At least in that room, sharply divided opinions did not lead to personal denigration; deep personal investment did not undercut professionalism and civility. Heated conversation at lunch was as likely to be over the weekend’s ball game or the merits of a given golf course as it was the deep legal issues we tussled with.

And Bill certainly set the example: asking questions clearly; challenging others to bring clarity to the points being made; and in wrapping up, stating his opposition in very measured, logical, and legally-grounded terms. His engagement was, in my view, just what you’d expect from a person you saw as a “lawyer’s lawyer.”

And there was a brief but interesting epilogue, as this contentious issue coincidentally arose during a time that many within our Bar were vigorously debating whether the Bar should remain mandatory, or transition to a voluntary bar.

When the Bar made known its support for the gender identity proposal, Bill circulated a short email to the Task Force Chair to note that the Bar's support for the proposal typified the issues that motivated the call for disestablishing the mandatory bar. I thought that comment helpful, as it highlighted a bar-related issue with which I was not engaged, and gave the Bar an additional insight to weigh. A copy of that email is attached.

Given his evident analytical skills; his respect for his diverse colleagues in that politically polyglot task force; his respect for the Bar, and his unfailing civility, I certainly see Mr. Montgomery as having several of the most valuable qualities a judge might possess.

Based upon these experiences with him, both broad and narrow, I am pleased to strongly commend him as a candidate to the bench of this state's highest court.

You are welcome to contact me should you have any questions.

With great respect,

Gary S. McCaleb
Senior Counsel

From: Montgomery Bill [<mailto:Montgomery.Bill@maricopa.gov>]
Sent: Monday, November 19, 2012 8:56 AM
To:

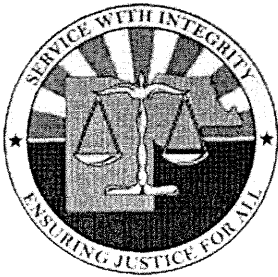
Subject: RE: ER 8.4 Task Force - Update

Thanks for the update, Carrie.

I feel compelled to reiterate what I shared at our last meeting: there is a growing sentiment among attorneys that if the State Bar approves the further segmentation of our community along the lines proposed, an unnecessary distinction/segmentation given our common humanity as I have expressed, there will be a strong effort to render membership voluntary with a requisite change in the manner of regulating our profession.

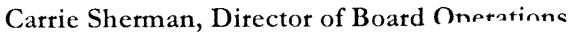
Sincerely,

Bill Montgomery
Maricopa County Attorney



From: Carrie Sherman [<mailto:Carrie.Sherman@maricopa.gov>]
Sent: Monday, November 19, 2012 8:44 AM
To: Alan Bayham; Ann K. Leslie; Montgomery Bill; Brett Harvey; Bryan Chambers; Carrie Sherman; Claudia Work; Dianne Post; Gaetano Irsani; Gary McGee; Jeff Clark; John R. Phelps; Kami Hoskins; Kina Harding; Paul Mark; Melissa Ho; Michael Crawford; Molly Newburn; Patricia Salen; Rod Galarza; Suzanne Diaz; Virginia Herrera-Gonzales
Subject: ER 8.4 Task Force - Update

All: On Friday the Board of Governors' Rules Committee considered the Task Force's proposal (attached). The Committee made no modifications to it and will present the proposal to the full Board on November 30 as an informational item. The Board is scheduled to vote on this matter at its December 14 meeting. Carrie



EMAIL:

Serving the public and enhancing the legal profession.

Linley Wilson:

This letter will serve as a formal recommendation for the consideration of Bill Montgomery to be appointed by Governor Ducey to the Arizona Supreme Court. My husband and I have known Bill for 10 years in many different capacities. Through our mutual concerns for community and reform, we have been afforded the opportunity to see firsthand, Bill's strengths in working as a member of a team, his commitment to the rule of law, and his unwavering sense of duty and character. He has taken a very active role in many community efforts and is always willing to hear out the "other side" of any argument while ultimately following what the law dictates. We have watched Bill's tireless efforts to improve the community through his work as a board member of First Way and his support of Great Hearts and the Teypeyac Leadership Institute and many other organizations with which we have also been involved. We are confident that Bill would be an asset to the court because of the many leadership roles he has held in Arizona, his love of country and the law, his reliability and honesty. From West Point to the Gulf War to his time as Maricopa County Attorney, he has been a member of an influential network of professionals and served as a virtuous leader to advance the common good of all, while displaying confidence, wisdom and good judgement. Please do not hesitate to contact us with any additional questions you may have.

Sincerely,

Debbie and Bill Cheatham

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July 11, 2019

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Arizona Commission on Appellate and Trial Court Appointments
1501 West Washington Street, Suite 221
Phoenix, Arizona 85007

Dear Honorable Members of the Commission,

On behalf of the Association of Prosecuting Attorneys (APA), I am writing to express my strong support for the appointment of Maricopa County Attorney William G. Montgomery to the Arizona Supreme Court.

APA is a national non-profit organization which includes both elected and appointed prosecuting attorneys as well as their deputies, assistants, victim advocates and investigators. We provide valuable resources to prosecutors to develop proactive and innovative practices that prevent crime, ensure equal justice, and increase community safety. This includes high-quality training and technical assistance to promote collaborative, innovative strategies to increase access to and quality of evidence-based, victim-centered services. MCA Montgomery was elected by his peers to serve on APA's Board of Directors in 2017 and has played a substantial role in the development and implementation of many innovative practices, many of which have been adopted by prosecutors' offices nationwide.

Under MCA Montgomery's leadership, his office hosted the first regional APA prosecutor-led diversion training. Prosecutor-led diversion programs offer an alternative to traditional case processing so certain individuals accused of committing a crime may participate in a community-based education or treatment program that addresses behavioral change. MCA Montgomery's office offers multiple diversion programs, including drug diversion, felony pre-trial intervention, and justice court diversion. Additionally, the Maricopa County Attorney's Office has earned the High-Performance Prosecution Designation, as they have embraced community prosecution and data-driven evidence-based prosecutorial practices.

MCA Montgomery has also been at the forefront of protecting the most vulnerable members of our community. His office serves on APA's Animal Cruelty Advisory Committee. Research shows that there is a strong link between animal violence and violence towards humans. Animal cruelty often connects to other serious and violent crimes, such as interpersonal violence and child abuse. MCA Montgomery is fighting to illuminate this link and hold offenders accountable. He knows that animal abuse is not something that can be ignored, as animal violence often sheds light on more serious crimes. To maximize public safety, his office is working with the Arizona legislature to increase the punishment for those who commit violence against animals.

Additionally, his office is hosting the next National Animal Cruelty Prosecution Training, which provides prosecutors, law enforcement and allied professionals with the skills to strengthen links between the criminal justice system and the community and enhances prosecutors' ability to successfully identify and prosecute animal cruelty and animal fighting cases.



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*District Attorney General
Shelby County, TN*

Kym Worthy
*County Prosecutor
Wayne County, MI*

MCA Montgomery has continued to advocate for victims' rights and his office has developed a robust victim services division. The Maricopa County Attorney's Office employs a K9 Victim Support Program; facility dogs trained to work with victims of crime. These canines provide a calming, comforting presence and provide support to victims throughout the criminal justice process, including court hearings, interviews, and meetings related to their case.

MCA Montgomery's office also participates in APA's Domestic Violence Committee. His office has created the national standard when it comes to strangulation cases, including victim support and police training. Their strangulation protocol has saved lives. Strangulation can be a precursor to homicide; by gathering additional evidence, training officers, and providing victims with services they need following a strangulation, more cases have been prosecuted, and fewer DV victims have died.

MCA Montgomery has cultivated an office environment in which prosecutors exposed to vicarious trauma can seek peer support through a successful program that has been replicated throughout the country. At its inception, this peer support program was the only program of its kind in the nation for prosecutors and was inspired by crisis support for officers. His office has conducted multiple national and site-based trainings to ensure that prosecutors throughout the country can benefit from these practices.

In addition to his recognized achievements, MCA Montgomery is well respected by his peers. He is a thoughtful member of APA's Major Counties Prosecution Council (MCPC), which is a conglomerate of the top 40 jurisdictions in the nation, which collectively prosecute one-third of the crime in our country. Maricopa County Attorney's Office is the only two-time host to the MCPC meetings. MCA Montgomery and his office have presented on wide array of topics and he has actively engaged with a truly diverse group of fellow prosecutors from around the country to work toward achieving safer communities. On difficult issues such as officer use of force, MCA Montgomery's office was very actively involved in developing APA's national guidelines for the proper role of a prosecutor in the wake of an office-involved shooting.

I have personally worked with MCA Montgomery and can attest to his upstanding moral character and ethical integrity as well as his ability to effectively work with prosecutors from all political persuasions across equally diverse jurisdictions to improve public safety in our communities. Accordingly, and on behalf of the Association, I strongly support MCA Montgomery's appointment to the Arizona Supreme Court. If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,

David LaBahn
President and CEO

July 15, 2019



The Commission on Appellate Court Appointments
1501 W Washington, Suite 221
Phoenix, AZ 85007

Dear Commission on Appellate Court Appointments:

It's my understanding that you have decided to interview Maricopa County Attorney Bill Montgomery as part of your process to make recommendations for an appointment to the Supreme Court of Arizona. While I no longer serve in any official capacity, I feel compelled to share some thoughts about my experiences with Mr. Montgomery from when I did serve in elected office.

During my 19 years as a Maricopa County Supervisor, I served with three different county attorneys and five presiding judges. Initially, my colleagues on the Board and I were skeptical about how Mr. Montgomery would perform as the Maricopa County Attorney. Mr. Montgomery had just won the 2010 special election, held to fill the remaining term of Andrew Thomas. County government, the Arizona Superior Court in Maricopa County, as well as much of Arizona state government were still recovering from the abuses and incompetence of Mr. Thomas.

From day one, Bill worked toward his stated goal of restoring confidence in the office and leading it to a new level of performance in all areas of service. He demonstrated the highest ethical standards in every undertaking towards this goal. For me, it was especially satisfying to have the legal counsel for Maricopa County that was untainted by political or personal agendas. I am confident that my colleagues with whom I served would voice similar sentiments if asked.

Bill has demonstrated great political courage in pursuing his agenda to reduce the recidivism rates for criminal offenders and was effective in the effort to prepare convicted criminals to re-enter society. His willingness to partner with all participants in the criminal justice system and social services providers undoubtedly benefitted our whole community. Bill's reverence for the justice system is beyond reproach. He is a model of the quotation etched on the side of the court building: "The first duty of society is justice."

In closing, I would like to thank you for serving in this extremely important position. Your service on this committee is a benefit to millions of people who have no direct knowledge of your efforts. This is truly the essence of community service.

Sincerely,

Andrew Kunasek

Dr Tracy Munsil:

This letter will serve as a formal recommendation for the consideration of Bill Montgomery to be appointed by Governor Ducey to the Arizona Supreme Court. My husband and I have known Bill for 10 years in many different capacities. Through our mutual concerns for community and reform, we have been afforded the opportunity to see firsthand, Bill's strengths in working as a member of a team, his commitment to the rule of law, and his unwavering sense of duty and character. He has taken a very active role in many community efforts and is always willing to hear out the "other side" of any argument while ultimately following what the law dictates. We have watched Bill's tireless efforts to improve the community through his work as a board member of First Way and his support of Great Hearts and the Teypeyac Leadership Institute and many other organizations with which we have also been involved. We are confident that Bill would be an asset to the court because of the many leadership roles he has held in Arizona, his love of country and the law, his reliability and honesty. From West Point to the Gulf War to his time as Maricopa County Attorney, he has been a member of an influential network of professionals and served as a virtuous leader to advance the common good of all, while displaying confidence, wisdom and good judgement. Please do not hesitate to contact us with any additional questions you may have.

Sincerely,

Debbie and Bill Cheatham

[Signature]

SacksTierney P.A.

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Gary E. Pace, CLM, Executive Director

July 18, 2019



VIA E-MAIL: jnc@courts.az.gov

Arizona Commission on Appellate Court
Nominations
Arizona State Courts Building
1501 W. Washington Street, Suite 221
Phoenix, AZ 85007

Writer's Direct Line: 480.425.2620
Writer's Direct Facsimile: 480.425.4920
Writer's E-mail: David.Tierney@SacksTierney.com

Re: Bill Montgomery, Esq. - Supreme Court Application

Dear Members of the Commission:

I have served seven (7) years on the Superior Court Nominating Commission (1975–1982) and nine (9) years on the Phoenix City Court Nominating Commission (2008–2015). I have practiced 50 years before the Bar in Arizona, plus some years in Massachusetts before coming to Arizona in May of 1969. I have some observations regarding the Application filed by Bill Montgomery Esq. for the open Supreme Court position with which you are about to deal.

First, I have spoken in various panels, presentations, and a radio show in “opposition” to Bill Montgomery over the last five (5) years. There are several major points in corrections on which we disagree and we are from different political parties. I have found Bill to be a calm and thoughtful presenter of his ideas on corrections, and I have seen him adjust and modify some of those positions as time, finances, and events made that feasible. Second, for 50 years, I have paid close attention to the way in which the Maricopa County Attorney’s Office has been operated under nearly eight different holders of the top position. We have had some bad County Attorneys and some good ones. The good ones have run an apolitical office, managed the criminal, tax, and civil divisions carefully, and trained the several hundred serving lawyers well, with no politics involved. Rick Romley ran a clean and professional office and Bill Montgomery as his successor has done an excellent job.

Third, like Rick Romley, Bill Montgomery has set and adjusted policy, set charging guidelines, set a high ethical standard, and has earned the studied respect and confidence of those who work in the several departments. Particularly from the Civil Division, with which I and my office have had extensive contact for 20+ years, and from front line prosecutors with whom I have

July 18, 2019

Page 2

spoken. I have come to know that Bill has run a "tight ship" where merit governs promotion and well trained professionalism and ethical behavior is expected and nourished. Bill was a prosecutor before he, like Romley, ran for the County Attorney position. In my view, we have a poor system by which to select our County Attorney (election is not a good way to expose work ethic, administrative ability, principled approach to prosecuting, etc.). We were fortunate when that process placed the office in the hands of Bill Montgomery and he has made it a well-functioning and attractive place to work. It has served the citizens of the County well, far better than some in the 70's and 80's, for example. While I differ from Bill on several important issues in corrections, I rate him as a top practitioner in an extremely delicate art, the performance of a vital public service. Accordingly, I strongly recommend Bill Montgomery as a candidate for the Supreme Court nomination.

Following Bill's Application to this Commission in the last round of applications for a Supreme Court seat, I heard some comments by a then member of the Commission. The comments were that Montgomery was not considered for the list sent to the Governor because he had not personally argued a whole series of appellate cases. I felt then, and I feel now, that such comments were off base. The Supreme Court, as now constituted, lacks Justices with extensive criminal law backgrounds. Bill Montgomery has repeatedly encountered, researched, considered, and decided difficult questions in about every aspect of criminal cases - and criminal cases make up a large portion of the Supreme Court's workload each year. I believe that Bill's extensive knowledge of the difficult and cutting edge issues in the criminal justice field would be a substantial asset to the Court, one that is likely unique among the list of applicants with which you will be dealing. This is a second important reason that I strongly recommend Bill Montgomery for the position on the Supreme Court of Arizona.

Sincerely,

SACKS TIERNEY P.A.

David C. Tierney
State Bar No.: 02385

DCT:pn

Moreno, Blanca

From: Andre Miller Sr · >
Sent: Thursday, June 20, 2019 1:04 PM
To: JNC - Judicial Nominating Commissions
Subject: Bill Montgomery

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Greetings,

I'm writing as a Pastor in Mesa Arizona, Father, African American and concerned citizen. I fully support the application of MCA Bill Montgomery as I've known him to be fair and open when approached with real concerns. Over the past several years I've worked with Attorney Montgomery to address police bias and proper community policing while looking at the cultural ramifications. As a Justice I'm certain Attorney Montgomery would show the same compassion he's shown from the MCAO and be an example of fairness. I've seen on occasions where he's been accused of not being racially sensitive and I can assure you that isn't the case and has never been a concern from me and several leading members of the East Valley NAACP.

His appointment to the court would be a needed addition with proven experience too be impactful while applying the law. I believe he is the best choice, and look forward to him being seated on the court.

Pastor Andre N. Miller, Sr.
New Beginnings Christian Church

Sent from my iPhone

June 20, 2019

To Whom This May Concern:

I write to express my support for Mr. William Montgomery as a nominee for Justice of the Arizona Supreme Court.

I am an Arizona trial attorney practicing almost exclusively in the civil realm. Primarily, I represent physicians who are accused of malpractice. I regularly take those cases to trial. One of my trials was just selected as one of the top ten defense verdicts of 2018 by the Arizona Attorney Magazine. I am a Senior Owner of the law firm of Sanders & Parks. My firm has enjoyed a reputation as one of the leading civil trial firms in Arizona for 46 years.

I have known Mr. Montgomery for at least ten years. The circumstances under which we met say a lot about Mr. Montgomery and his character. As Mr. Montgomery was about to take the helm at the Maricopa County Attorney's Office, he heard a story about me standing up for what was right under some trying circumstances. Mr. Montgomery reached out to meet me because he was genuinely interested in meeting and surrounding himself with people of integrity. We met over a cup of coffee and have been colleagues ever since. I have had the opportunity to work closely with Mr. Montgomery in relation to some important issues. He has always been committed to doing the right thing even when it would have been expedient to do something else.

Most of all, I have been impressed with Mr. Montgomery's devotion to the truth. He exemplifies the standards of professionalism and ethics to which we should all aspire.

I have worked with Mr. Montgomery enough to observe that he has the keen mind and analytical sensibility necessary to be an appellate judge.

I also believe that Mr. Montgomery's experience as an actual trial lawyer would be a very valuable resource for the Supreme Court. We need some legitimate trial lawyers on our appellate courts. As a trial lawyer, it can be very frustrating to brief and argue appellate issues before panels of appellate judges who have no idea what it is like to try a complex trial. Not every appellate judge needs to be an experienced trial lawyer, but at least some of them should be.

I am aware that some criminal defense organizations are engaging in a campaign to prevent Mr. Montgomery's nomination. It is one thing to oppose a nominee because of concerns over his character or qualifications. There is no basis to criticize Mr. Montgomery on either of those bases. Instead, the criminal defense bar seeks to prevent anyone with a prosecutorial background from making it to the appellate bench in Arizona. Unlike Mr. Montgomery, those who oppose him are not devotees of truth, they are devotees of a particular agenda. It would be a travesty if the proponents of a very particular agenda were able to prevent Mr. Montgomery's name from making it to the Governor's desk simply because he is a prosecutor. It may be helpful to remember that the objective of a criminal defense attorney is to secure an acquittal or a favorable plea utilizing any and all tactics within the bounds of their ethical constraints. By contrast, it is a prosecutor's job to do justice. As a prosecutor, Mr. Montgomery has spent a career considering facts, setting aside personal feelings and making objective decisions based upon doing what is right and what is just. That experience is a tremendous background for one seeking a position on the appellate bench.

I whole-heartedly endorse Mr. Montgomery as a nominee for the Supreme Court of Arizona. If you have any questions or would like to discuss any of these issues further, please do not hesitate to contact me at the number listed above.

Very truly yours,

J. Arthur Eaves
For the Firm

JAE:ml

Moreno, Blanca

From: CenturyLink Custome
Sent: Thursday, June 20, 2019 2:23 PM
To: JNC - Judicial Nominating Commissions
Subject: William G. Montgomery, MCAO

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Gratings,

I support Mr. Montgomery's nomination to the court. As County Attorney he has shown interest in improving relationships with minority communities and law enforcement. To that point he asked to meet, around 18 months ago with East Valley Community Leaders. He was interested in why East Valley Leaders had such a great respectful relationship with Mesa PD Leadership.

I know him to have an open mind, ear and door to our concerns we believe, of the unjust prosecutorial issues in our, African American Communities.

Thank you for your time and kindest regards,

Pastor Betty McGee
Retired, USAF
Chaplain
Co-Chair EVNAACP Legal Redress Committee

Moreno, Blanca

From: Ellen Benshalor
Sent: Monday, June 17, 2019 5:12 PM
To: JNC - Judicial Nominating Commissions
Subject: consideration of Bill Montgomery appointment to AZ Supreme Court

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

It is time to speak out against the potential appointment of Mr. Bill Montgomery. As a very partisan politician for many years, his leanings make it obvious that he could NOT be a fair judge over cases that may affect any Arizonan. The history regarding his discrimination of LGBTQ+ individuals, alone, disqualifies him.

Examples of why he should not be appointed are:

- 1) His refusal to bring important cases to the courts which could address criminal justice reform, and
- 2) His support of aggressive enforcement procedures.

I am asking the commission to not consider this individual to be a future Supreme Court judge.

Thank you.

Best regards,

Ellen Benshalom

Moreno, Blanca

From: Carolyn Riske
Sent: Tuesday, June 18, 2019 5:22 PM
To: JNC - Judicial Nominating Commissions
Subject: Bill Montgomery

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I have been reading about the impartial commission that was set up constitutionally to prevent politically extremist judges to serve on any court in our state.

The Arizona Supreme Court should personify impartiality and Bill Montgomery, with his blatant anti LGTBQ discrimination for one. We actually need criminal justice reform, and he has refused to bring important cases to court.

Please do not nominate him for any judgeship. You know better. Educating the electorate is a lot harder.

Thank you.

Carolyn Riske

Moreno, Blanca

From: Hedy Grimaldi >
Sent: Tuesday, June 18, 2019 9:49 PM
To: JNC - Judicial Nominating Commissions
Subject: Bill Montgomery

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I must speak out against the potential appointment of Bill Montgomery.

It is clear that he will not be able to be non-partial in his rulings. This would be very unfair to many of Arizona citizens.

--

Hedy Grimaldi

June 19, 2019

Arizona Commission on Appellate and Trial Court Appointments
1501 West Washington Street, Suite 221
Phoenix, Arizona 85007

Dear Honorable Members of the Commission,

Eight years ago, Maricopa County Attorney William G. Montgomery appointed me as a Special Assistant to the Chief Deputy of the Maricopa County Attorney's Office, and it has been a great honor and privilege to work for him and the people of Maricopa County.

I am writing to recommend MCA Montgomery for appointment to the Arizona Supreme Court because he is exceptionally qualified, and it will allow him to continue his lifelong career of public service. The Commission should find that MCA Montgomery is highly qualified to serve on the Arizona Supreme Court for the following reasons.

MCA Montgomery's exceptional academic and professional credentials make him an excellent candidate for the Arizona Supreme Court. MCA Montgomery graduated from the United States Military Academy at West Point, which is consistently regarded as one of the top universities in the country. Not only did MCA Montgomery graduate from West Point, but he graduated in the top 15 percent of his class, which means he earned outstanding grades in academics, physical fitness, and military leadership. As a West Point graduate, I regard his accomplishments with the utmost respect because, despite my best efforts, I was unable to achieve them as a cadet.

After leading soldiers at the platoon and company level as an Army officer, including during Operations Desert Shield and Desert Storm for which he received the Bronze Star Award, MCA Montgomery worked in Silicon Valley before attending law school at Arizona State University. There he graduated in the top 10 percent of his class, which is reflected by his membership in the Order of the Coif and his magna cum laude distinction.

Since 2010, MCA Montgomery has led the Maricopa County Attorney's Office, which is one of the largest law firms in Arizona. The Maricopa County Attorney's Office has a substantial criminal practice that involves approximately 330 prosecutors and 50,000 submittals each year. It also has a distinguished civil practice that involves approximately 45 attorneys who provide litigation, advice, and transactional legal services to various Maricopa County agencies who have an aggregate budget in excess of \$2 billion. Criminal and civil attorneys appear in state justice courts; superior courts; and appellate courts, including the Arizona Supreme Court. They also appear in federal district and circuit courts, as well as file certiorari petitions in the United States Supreme Court. Pursuant to Arizona statute, they practice as deputies of the County Attorney, and are subject to his direct and indirect supervision.

Thus, during his almost 10-year tenure as Maricopa County Attorney, MCA Montgomery has likely supervised more criminal and civil cases than any other attorney in Arizona. And contrary to ill-informed assertions otherwise, MCA Montgomery is directly involved in many of those cases. I know because I have worked with him, meaning he drafted, edited, and researched briefs, on high profile criminal cases, such as *State v. Sample* and *State v. Milke*, when they were pending review by the Court of Appeals and the Arizona Supreme Court. While the results of the cases were mixed, MCA Montgomery's work product, guidance, and decisions were essential to the resolution of each case.

Beyond those cases, I have known MCA Montgomery to be personally involved in many criminal and civil cases. Most often, he is directly involved with cases when they are on appeal, and his involvement includes drafting, reviewing, and editing briefs, and also discussing the legal issues with the assigned attorney. In most cases subject to appellate review, MCA Montgomery provides guidance and makes critical procedural and substantive decisions that are followed by the assigned attorneys.

In addition to the reasons set forth above, the commission should also recommend MCA Montgomery to Governor Ducey for potential appointment to the Arizona Supreme Court because he is a diverse candidate given his personal history. His inspiring story of overcoming hardships gives him a unique framework for understanding hardships and the importance of protecting the rights of all to pursue the American Dream.

He is also a military veteran, which distinguishes his background and experience from other justices on the Arizona Supreme Court. The most recent data from the Department of Veterans Affairs indicates that 500,000 military veterans lived in Arizona in 2016. While the Arizona Supreme Court does not decide many cases involving veteran or military specific issues, it is important to veterans such as myself, as it is with other federally protected groups, to know that at least one justice on Arizona's highest court has worn combat boots and has personally experienced aspects of life that are unique to military service. And although prior Arizona Supreme Court justices were veterans, MCA Montgomery would be the first West Point graduate to serve on the Court. It is an historic opportunity to have someone who has been trained and tested to live out the motto of Duty, Honor, Country.

I also feel it is necessary to note my experience in working on public records matters and helping to provide oversight guarding against prosecutorial misconduct. MCA Montgomery assigned those projects to me specifically because he wanted to improve the organization in those respects.

In my assignment to track issues of prosecutorial performance, I regularly review appellate opinions to note trends or issues across the prosecution function and those that may pertain to an individual prosecutor. The Maricopa County Attorney's Office then incorporates into training, and where necessary counseling and discipline and even referral to the State Bar, to address areas or specific instances of concern. In 2018, the Arizona Court of Appeals considered prosecutorial misconduct claims on direct appeal in 28 non-capital cases and did not find any prosecutorial misconduct that constituted reversible error.

Notably, many of the claims of prosecutorial misconduct on direct appeal were made by self-represented defendants in supplemental briefs pursuant to an *Anders* review, which is typically a direct appeal that is filed after appellate defense counsel reviews a trial, finds no claims of error, and asks the Court of Appeals to review the record for fundamental error.

As the Maricopa County Attorney, Mr. Montgomery requires all employees to maintain high professional and ethical standards and he holds them accountable if they fail to do so. While rare, the Maricopa County Attorney's Office has referred some prosecutors to the State Bar when there is evidence they have violated the Rules of Professional Responsibility.

I also work in the area of responding to public records requests. The Maricopa County Attorney's Office receives over 600 public records requests per year and responds to every request. In fact, after his election in 2010, MCA Montgomery established a formal public records review process, and assigned personnel to address the significant demand for public records, adding personnel over the years to try and keep up with an ever-increasing demand. As for public records requests made on or after August 2018 for an internal investigation of sexual harassment allegations against a high-profile prosecutor, the facts are different than what have been reported.

In April 2018, the Maricopa County Attorney's Office received a subpoena for the investigation from the State Bar for the investigative materials and agreed to provide it following discussions with the State Bar that resulted in an agreement that the best way to provide the records in a timely manner without having to go through the process of redacting private information was to provide the materials subject to a protective order. While the material was provided in September 2018, and a protective order was subsequently issued, the Maricopa County Attorney's Office could not ethically provide that material to the requestors who had filed the public records request given the State Bar subpoena and knowledge that it would likely be subject to a protective order. And the Maricopa County Attorney's Office has clearly informed each requestor that they will receive the material when it is no longer sealed by a protective order.

Respectfully,

Michael J. Mitchell
Special Assistant to the Chief Deputy
Maricopa County Attorney's Office

Moreno, Blanca

From: Carol Consalvo [mailto:carol@consalvo.com]
Sent: Wednesday, June 19, 2019 12:04 PM
To: JNC - Judicial Nominating Commissions
Subject: Possible Nomination of Bill Montgomery to the AZ Supreme Court

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Attn: The Commission on the Appellate Court Application:

It is time to speak out against the potential appointment of Mr. Bill Montgomery. As a very partisan politician for many years, it is easy to review his leanings that make it obvious that he could NOT be a fair judge over cases that can effect every Arizonan. His history regarding his discrimination of LGTBQ+ individuals, alone makes him not qualified. As an example, his refusal to bring important cases to the courts that could address criminal justice reform and possible overly aggressive police procedures is an indication that he is, again not fit to be a judge. I am asking the commission to not consider this individual too be a future Supreme Court judge.

Thank you, in advance, in taking my comments in making your fair decision on this matter.

Carol Consalvo

"The world is a dangerous place, not because of those who do evil but because of those who look on and do nothing." -Albert Einstein



June 20, 2019

Arizona Commissions on Appellate and Trial Court Appointments
1501 West Washington Street, Suite 221
Phoenix, Arizona 85007
jnc@courts.az.gov
Submitted via Email

**RE: Comments Regarding William G. Montgomery's Candidacy
for Arizona Supreme Court**

Dear Commission on Appellate Court Appointments:

Lambda Legal is the oldest and largest national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and everyone living with HIV through impact litigation, education and public policy. We write to express serious concern about the possible appointment of William Montgomery to the Arizona Supreme Court. We shared the following concerns with the Commission on February 26, 2019, when Mr. Montgomery first sought appointment to the Arizona Supreme Court. With five new commissioners joining the Commission since the last interview and selection process for applicants to the Arizona Supreme Court, we feel it necessary to again express these concerns to the Commission.

Mr. Montgomery, current Maricopa County Attorney, has a record that reflects persistent, open hostility to the principles of equality, liberty, justice and dignity under the law for LGBT people and their families, among others. Accordingly, it appears unlikely that he would be able to provide impartial justice to LGBT people and their families if he were appointed to the Arizona Supreme Court, let alone the appearance of impartiality.

In 2015, after the U.S. District Court for the District of Arizona followed the decision of the Ninth Circuit Court of Appeals and struck down Arizona's ban on marriage for same-sex couples,¹ a same-sex couple in Maricopa County reached out to Mr. Montgomery's office to utilize the free legal assistance required to be available to married couples to help with the adoption of their son. They were told that same-sex couples were not approved to receive the free legal assistance.² When questioned, Mr. Montgomery maintained this position and indicated his belief that the Ninth Circuit's decision was only about marriage, not about other legal rights for same-sex couples and their families, such as adoption support.³ Even though the Ninth Circuit's *Latta* decision rests in part on the fact that many same-sex couples are raising children

¹ *Majors v. Horne*, 14 F.Supp.3d 1313 (Oct. 17, 2014), following *Latta v. Otter*, 771 F.3d 456 (9th Cir. Oct. 7, 2014).

² Michael Kiefer, *County Attorney Won't Help Gay Couple Adopt*, (April 8, 2015), THE ARIZONA REPUBLIC, available at, <https://www.azcentral.com/story/news/arizona/politics/2015/04/08/arizona-gay-couple-refused-adoption-help/25491619/>.

³ *Id.*

and the importance of securing those family relationships legally, and even though the adoption right requested of his office (assistance with a stepparent adoption) flowed directly from the status of being married under Arizona law, Mr. Montgomery continued to insist that the *Latta* decision had no relevance. He refused to provide equal adoption-related benefits to same-sex couples who were legally married.

Mr. Montgomery did not stop there. After this incident, Mr. Montgomery sought to have legislation passed that would repeal the requirement that county attorneys provide free legal assistance to couples seeking to adopt children.⁴ This legislation was passed by the Arizona Legislature in 2015, but was vetoed by Governor Ducey.⁵ At the time of the veto, Mr. Montgomery's press aide indicated that he didn't anticipate Mr. Montgomery would continue to provide this legal aid, required by law, at least not to same-sex couples coming to his office for the help to which they were entitled.⁶ Mr. Montgomery's actions indicated both a significant hostility to same-sex couples and an alarming lack of commitment to following the law.

But Mr. Montgomery's hostility extends not just to same-sex couples. In 2012, Mr. Montgomery was part of the Arizona State Bar's ER 8.4 Task Force, as he acknowledged in paragraph 53, page 23 of his application. The Task Force was established by the Arizona State Bar to explore possible action to be taken by the Bar before the Arizona Supreme Court with respect to amending Rule of Professional Conduct 8.4 for attorneys. This rule prohibits attorneys from manifesting bias or prejudice based on certain personal characteristics during an attorney's representation of a client. During his membership in this Task Force, Mr. Montgomery opposed any expansion of protections for transgender people in the Rules of Professional Conduct. He went so far as to suggest that if the Bar continued the work to make the rules more protective for transgender people, he and others would seek to render membership in the Bar voluntary including a requisite change in the manner of regulating the legal profession in Arizona.⁷

He maintained this overt hostility in the years that followed. In 2015, Mr. Montgomery, in his official-capacity, opposed efforts to have the Arizona Supreme Court update judicial ethics rules to include protections for transgender people. Those efforts were filed before the Arizona Supreme Court as Rule Change Petitions numbered R-15-0014 and R-15-0020. Mr. Montgomery's filing in R-15-0014 (attached with this email) indicates that he is strongly opposed to non-discrimination ethics rules that provide protections for specific classes of people,

⁴ Howard Fischer, *County Attorneys Can't Refuse to Help Gays with Adoptions*, (April 14, 2015), ARIZONA CAPITOL TIMES, available at, <https://azcapitoltimes.com/news/2015/04/14/county-attorneys-cant-refuse-to-help-gays-with-adoptions/>.

⁵ *Id.*

⁶ *Id.*

⁷ Email attached with this letter.

particularly for those who are transgender. He also demonstrates a lack of understanding or any attempt in the intervening years to understand why there is a need for protections for transgender people in the court system. Any individual who does not believe that all people deserve access to the courts free of bias and prejudice is not fit for a judicial role.

Lambda Legal emphasizes this anti-transgender bias because our own investigation of the treatment of LGBT people within court systems and other governmental systems in this country discovered pervasive, especially troubling biases against transgender people.⁸ The 2016 report of the *2015 U.S. Transgender Survey* confirmed in more extensive detail the gross mistreatment, harassment, and violence inflicted upon transgender Americans in nearly every aspect of life.⁹ It is imperative that judicial officers sworn to uphold the constitution of any state and the United States Constitution understand that equal protection and other core constitutional guarantees protect transgender people just like everyone else, and that they act accordingly.

But, Mr. Montgomery has made clear over the course of many years that he is unwilling to treat LGBT people equally under the law. Given Mr. Montgomery's pattern of conduct, LGBT people in Arizona could not feel confident they would be facing a fair and impartial judge if they were to appear in front of him should he be appointed to the Court.

At a minimum, the Commission should investigate and evaluate the circumstances surrounding Mr. Montgomery's service on the ER 8.4 Task Force and his decision to deny same-sex married couples equal treatment before making any decision to recommend him for appointment to the Arizona Supreme Court.

Thank you for your time and consideration of this information. Please do not hesitate to contact us if you have questions by contacting Ethan Rice, Senior Attorney at

212-809-8585 or erice@lambdalegal.org

Sincerely,

Ethan Rice, Senior Attorney*
Fair Courts Project
National Headquarters Office

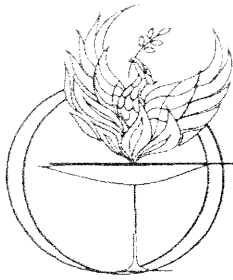
Jennifer C. Pizer, Senior Counsel and
Director of Law and Policy**
Western Regional Office

* Licensed in New York and Florida only

**Licensed in New York and California only

⁸ Lambda Legal, *Protected and Served?* (2012), available at <https://www.lambdalegal.org/protected-and-served>.

⁹ S.E. James *et al.*, *Report of the 2015 U.S. Transgender Survey* (National Center for Transgender Equality, 2016), available at <http://www.ustranssurvey.org/>.



Unitarian Universalist Congregation of Phoenix

A Welcoming Congregation

June 16, 2019

Dear members of the Commission on Appellate Court Appointments:

We oppose the candidacy of Bill Montgomery for the Arizona Supreme Court. His conduct in power as Maricopa County Attorney reflects an authoritarian character which is hostile to many members of our society most in need of the law's protection. He also has a long history of intense Republican partisan political activity; his appointment to an already thoroughly Republican Supreme Court would worsen doubts about the impartiality of our Supreme Court and be a polarizing event. Montgomery is viewed by many as tolerating or even encouraging a culture of "win at all costs" among his prosecutors – despite the fact that prosecutors are ethically charged not with winning, but with doing justice.

In a free society justice must not only be done, but be seen to be done. A recommendation of Mr. Montgomery to the Governor will cast doubt on the integrity and impartiality of this Commission. An appointment of Mr. Montgomery to the Arizona Supreme Court will cast doubt on the Court itself.

Paradise Valley, Arizona 85253
602.840.8400 (Fax) 602.840.1588
www.phoenixuu.org

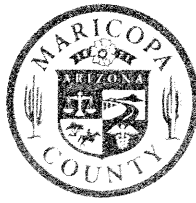
Date: Sun, 16 Jun 2019 15:00:31 -0700

Subject: Potential appointment

It is time to speak out against the potential appointment of Mr. Bill Montgomery. As a very partisan politician for many years, it is easy to review his leanings that make it obvious that he could NOT be a fair judge over cases that can effect every Arizonan. His history regarding his discrimination of LGTBQ+ individuals, alone makes him not qualified. As an example, his refusal to bring important cases to the courts that could address criminal justice reform and possible overly aggressive police procedures is an indication that he is not fit to be a judge. I am asking the commission to not consider this individual too be a future Supreme Court judge.

Thank you,

Myra Baum



OFFICE OF THE ASSESSOR

PAUL D. PETERSEN
Assessor

June 19, 2019

Commission on Appellate Court Appointments
1501 W. Washington, Suite 221
Phoenix, AZ 85007

Dear Commissioners,

I am writing you to recommend Maricopa County Attorney William Montgomery for the vacancy on the Arizona Supreme Court. I have a more multi-faceted view of him than most others who know him. I have known Bill for nearly 20 years. I originally met him when he was a young prosecutor and I was freshly out of law school defending the son of a family friend on a felony case. Bill had no reason to listen to me more than any other defense counsel, and I was certainly green at that time. Yet, he showed my client and me incredible grace by taking the time to hear all the facts of that case, and ended up making a reasonable, but fair, plea offer. I knew at that point that he was someone I could trust and who was honorable, based on his limited professional interaction with me then.

Fast forward a number of years, and I found myself working in the Maricopa County Assessor's office. During that timeframe the Board of Supervisors and other county-wide elected officials found themselves at odds with the County Attorney and Sheriff. This caused significant disruption to county government, and resulted in a crisis of leadership at the county level. Fortunately, the county attorney at the center of that controversy decided to resign to run for Attorney General. This meant that the Maricopa County Attorney's office would get new leadership. When I found out that Bill intended on running for the position of county attorney, I was one of the first to publicly support him, as I knew he not only had the *bona fides* for the position, but more importantly, would bring needed stability and principled leadership back to the office. And in fact, once Bill was elected, the long-simmering feuds, disharmony, and mistrust essentially dissipated. Bill was able to restore and further foster the necessary trust between elected officials and departments that had been lost under the previous administration.

A few years after Bill was elected as the Maricopa County Attorney, I had the opportunity and honor to be appointed to (and later elected twice) as the Maricopa County Assessor. The role of the Assessor is to locate, identify, and value all real and personal property within Maricopa County. This is done to make sure the property tax role is equalized and fair for all county taxpayers. In this role specifically, my office interacts on a daily basis with the County Attorneys' office because we are essentially the County's experts on property valuation --- we set the initial values and then give advice

and opinions regarding those values if a property owner appeals those values. The reason I bring this up, in relation to Bill, is that, quite unusually, I exercise more control and decision-making regarding legal strategy and case management than previous Assessors, primarily because I am an attorney myself. There have been times when I have not agreed with advice given by the county attorney's office, and have asked for further clarification from them. Bill has always been gracious enough to listen to my point of view first, before responding and explaining his position. And while we don't always end up on the same page, he has swayed my initial opinion based on his initial act of listening before arguing his position. More importantly, when we have disagreed, he was always willing to re-evaluate the position of his office, based on additional facts we presented to him, or based on other evidence and/or legal arguments he had not previously considered. I find this fact to be refreshing: a powerful county attorney who has no real duty or obligation to take into consideration legal arguments from another elected official, after all, his duty as county attorney is to provide legal advice to the Board of Supervisors and other elected county officials like myself. I know from personal experience that other county attorneys, both inside and outside Maricopa County, have not been as gracious or accommodating as Bill has.

I strongly believe that Bill has all the qualities necessary to be a good justice. He is smart. He is gracious. He is open-minded. He works well with others. He is a man of fidelity. He has a firm belief system. He is a veteran. He is a man of character. For these reasons, and because I believe in him as a mentor, peer, and friend, Arizona's judicial system would be well-served and complemented greatly by having William Montgomery sit on the Arizona State Supreme Court.

Sincerely,

Paul D. Petersen
Maricopa County Assessor

Moreno, Blanca

From: Camille Tilley
Sent: Friday, June 21, 2019 12:03 AM
To: Moreno, Blanca
Cc:
Subject: AZ SC judge applications: Bill Montgomery lied or misled the Supreme Court in MCAO letter replying to Rule 42, ER 3.8. R-11-0033
Attachments: Bill Montgomery Opposes Ethics Rule Requiring Prosecutors to Reveal Evidence of Wrongful Convictions.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Att: Bianca Moreno

To: Commissions on Appellate and Trial Court Appointments Re: Supreme Court judge applications

In response to the recent vacancy and Bill Montgomery re-applying for the judge position.

Please original position stands after his first application. Bill Montgomery is unfit for the position of a judge.

I've added a new link on his racism and bias.

I support David Euchner who has years of court experience in an area missing from the current judge lineup.

Sincerely,
Camille Tilley

AZ MCAO Bill Montgomery's Office Hires "Islamaphobe" to Instruct County Prosecutors on Muslim "Threat" | Phoenix New Times 9/10/14

http://blogs.phoenixnewtimes.com/valleyfever/2014/09/bill_montgomerys_office_hires_islamaphobes_to_instruct_prosecutors_police.php

Begin forwarded message:

From: Camille Tille
Subject: Bill Montgomery lied or misled the Supreme Court in MCAO letter replying to Rule 42, ER 3.8. R-11-0033
Date: February 6, 2019 at 12:35:47 PM MST
To: bmoreno@courts.az.gov
Cc:

To: Commissions on Appellate and Trial Court Appointments Re: Supreme Court judge applications

NO! to Bill Montgomery for Supreme Court, who **lied or misled** the AZ Supreme Court in their MCAO letters replying to **Rule 42, ER 3.8. R-11-0033** which was passed against the state prosecutors' protest.

Read the letter MCAO Mark Faull/Bill Montgomery wrote to the AZ Supreme Court on your website, saying there were no wrongful convictions in Arizona, when in fact there were (also, see attached article); those in the appeals courts fighting their wrongful convictions while languishing in prison buried in Arizona's draconian mandatory minimum sentencing where they would be hidden for decades.

MCAO DA/County Attorney Bill Montgomery had the responsibility to seek fair justice, to right the wrongs done by Andrew Thomas and to investigate Thomas 200,000 felony cases in one term in office (2005-2010) that he bragged about during his unsuccessful run for state AG.

Montgomery failed to investigate those cases for wrongful convictions. Andrew Thomas was disbarred in 2012 after he was disciplined in the Arizona Supreme Court. The MCAO swept the 200,000 cases and prosecutorial misconduct under the rug and moved on. It would be a disservice to the justice system and the people of Arizona to have Bill Montgomery on the Supreme Court, along with others who "rubber-stamped" these cases "denied" without reading them, after innocent men and women were languishing in Arizona's prisons and appeals courts.

Bill Montgomery Opposes Ethics Rule Requiring Prosecutors to Reveal Evidence of Wrongful Convictions

By Stephen Lemons Thu., Aug. 1 2013

"In a comment to the court penned by Mark Faull, Monty's chief deputy, Faull argues that these "new obligations" would be "confusing and burdensome" and that there is "no convincing evidence that Arizona has a 'problem' of wrongful convictions" or that "prosecutors have failed to take corrective action when appropriate."

This proves conclusively that at least some prosecutors come from an imaginary planet'..'

Also, NO to Beene, Howe, Cattani - YES to David Euchner who has the extensive experience to serve ALL the people.

Sincerely,
Camille Tilley

Concerned citizen, mother, grandmother, **Arizona homeowner, voter and taxpayer**

Phoenix New Times



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FEATHERED BASTARD

by Stephen Lemons

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Feathered Bastard

Bill Montgomery Opposes Ethics Rule Requiring Prosecutors to Reveal Evidence of Wrongful Convictions

By Stephen Lemons Thu., Aug. 1 2013 at 12:48 PM
Categories: Feathered Bastard

59 Comments

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24



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New Times Broward-Palm Beach

From
the
Vault





Monty's against requiring prosecutors to reveal new evidence of a convict's innocence . . .

As Maricopa County Attorney Bill Montgomery fights to keep Debra Milke behind bars pending a retrial on her overturned murder conviction, he also is fighting a proposed rule to the State Bar of Arizona that would require prosecutors to act on new evidence of a wrongful conviction.

For the past two years, the Arizona Justice Project has petitioned the Arizona Supreme Court to change the State Bar of Arizona's ethics rules, adding a provision based on the American Bar Association's Ethical Rule 3.8.

The ABA's rule states that if a prosecutor discovers "new, credible, and material evidence" of a wrongful conviction, he or she must disclose the evidence to the defendant and "undertake further investigation or make reasonable efforts to cause an investigation, to determine whether the defendant was convicted of an offense that the defendant did not commit."

See Also:

Debra Milke's Attorney Asks Court to Disqualify Bill Montgomery's Office as Prosecutor

Should there arise "clear and convincing" evidence of the innocence of someone convicted in the prosecutor's jurisdiction, "the prosecutor shall seek to remedy the conviction." According to the AJP's filings, eight states have adopted the ABA rule in whole or in part, largely over concern caused by a slew of death penalty cases nationwide that have been overturned due to new evidence.

Based on the suggestions of local prosecutors, the Arizona Supreme Court re-opened comments on the proposed rule this year, offering a somewhat watered-down version of the ABA rule.

It reads:

"(g) When a prosecutor knows of new and credible evidence that the prosecutor knows creates a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall:

(1) promptly disclose that evidence to an appropriate court or authority, and
(2) if the judgment of conviction was entered by a court in which the prosecutor exercises prosecutorial authority, promptly disclose that evidence to the defendant unless a court authorizes delay.

(h) When a prosecutor knows of clear and convincing evidence that the prosecutor knows establishes that a defendant in the prosecutor's jurisdiction was convicted of an offense that the defendant did not commit, the prosecutor shall take steps in the appropriate court, consistent with applicable law, to set aside the conviction.

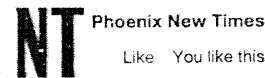
(i) A prosecutor's independent judgment, made in good faith, that the information is not of such a nature as to trigger the obligation of this rule, though subsequently determined to have been erroneous, does not constitute a violation of this Rule."

In a county that has given us the wrongful murder conviction of Ray Krone, the extra-constitutional antics of disbarred former county attorney Andrew Thomas, and now the overturned conviction of Debra Milke, whose still-warm spot on death row was secured via the testimony of a Phoenix Police Detective with a long history of lying and abuse of authority, a rule such as this would seem a no-brainer.

But not to Montgomery, who still wants his prosecutors to have the ability to hide the football after a conviction without fear of sanction by the state Bar.

In a comment to the court penned by Mark Faull, Monty's chief deputy, Faull argues that these "new obligations" would be "confusing and burdensome" and that there is "no convincing evidence that Arizona has a 'problem' of wrongful convictions" or that "prosecutors have failed to take corrective action when appropriate."

This proves conclusively that at least some prosecutors come from an imaginary planet



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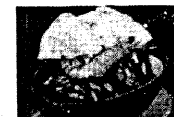
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where unethical behavior by their tribe does not exist.

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Tags: Arizona Supreme Court, Bill Montgomery, Larry Hammond, Tom Horne



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Print Article



303 points

59 comments



truthseekeraz ...

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truthseekeraz

3 hours ago

Press Release: Center for Prosecutor Integrity Calls on Prosecutors to Root out Misconduct After AZ Report of Widespread Unethical Practices | Wrongful Convictions Blog
<http://bit.ly/1dOfw8z>
<http://wrongfulconvictionsblog.org/2013/11/06/press-release-center-for-prosecutor-integrity-calls-on-prosecutors-to-root-out-misconduct-after-az-report-of-widespread-unethical-practices/#comment-17142>

Like Reply



truthseekeraz

Sep 17, 2013

AZ: ex-MCAO DCA Aubuchon officially disbarred - violated ER 3.8(a) Ethics responsibility for prosecutors

<http://www.azcourts.gov/Portals/0/OpinionFiles/Supreme/2013/SB-12-0035-AP.pdf>

"For the reasons previously explained regarding Judge O'Neil's ruling on the number of character witnesses permitted, we reject Aubuchon's argument on that point. See supra ¶ 20.

¶57 We also reject Aubuchon's remaining arguments. The panel found that Aubuchon's lack of a prior disciplinary record was a mitigating circumstance, so her argument that the panel failed to credit this fact is baseless. And although witnesses testified to Aubuchon's good character, the panel was justified in not finding this a mitigating circumstance in light of evidence regarding the events underlying these proceedings, which reflected poorly on her character. Finally, the manner in which the disciplinary proceedings were initiated has no bearing on whether the presumptive sanction of disbarment is appropriate.

¶58 Aubuchon's most serious misconduct was **filing a criminal complaint against Judge Donahoe in violation of ER 3.8(a) and engaging in conduct prejudicial to the administration of justice in violation of ER 8.4(d).**

Although the panel properly found that Aubuchon also violated several other ERs, we consider those particular violations the most egregious in light of the public trust placed in prosecutors to wield their considerable power fairly and for the public good. After considering Aubuchon's mental state when engaging in the misconduct, the potential and actual injuries suffered, and the aggravating and mitigating circumstances, we are compelled to impose the presumptive sanction.

¶59 We order Aubuchon disbarred.

* Chief Justice Rebecca White Berch recused herself from this case. Pursuant to Article 6, Section 3 of the Arizona Constitution, the Honorable Lawrence F. Winthrop, Judge of the Court of Appeals, Division One, was designated to sit in this matter."

Like Reply

Aug 19, 2013

truthseekeraz

This was written Dec. 12, 2011; today there are over 1,180 exonerations, see Exoneration Registry.

<http://www.motherjones.com/politics/2011/12/innocent-people-us-prisons>

→ Crime and Justice, Human Rights

HOW MANY INNOCENT PEOPLE ARE IN PRISON?

The exact number is unknown—but may be 20,000 or more. Plus: an interactive map, and rarely seen video of Rick Perry pardoning a dead man. — By Beth Schwartzapel and Hannah Levintova | Mon Dec. 12, 2011 8:10 AM PST

Read the story: How Rick Perry was forced to pardon an innocent man—years after he'd died behind bars.

"Before we talk about how many people may be behind bars for crimes they did not commit, we must acknowledge that it's nearly impossible to know—only broad estimates are possible. There are several key reasons, experts say, why a number is so hard to ascertain. Because the sprawling criminal justice system is a patchwork of federal, state, county, and municipal courts, prisons, and jails—each with its own system (or lack thereof) of record-keeping and data-reporting—we don't even know how many people are convicted, let alone *wrongfully* convicted, of crimes in the United States. "We don't even have a denominator," says University of Virginia law professor Brandon Garrett. "But the wrongful convictions we do know about suggest that there's a big problem."

Like Reply

Sep 16, 2013

truthseekeraz

1,210 exonerations as of Sept. 15, 2013. More in the works. Wake up Arizona, time to "right the wrongs" on the 1% of the over 200,000 FELONY CASES under the Thomas / Aubuchon / Alexander reign of terror on Maricopa County and the state.

Like Reply

Sep 17, 2013

truthseekeraz

1% of 200,000 FELONY CASES = 2,000 possibly innocent and wrongfully convicted (since 2005, one term in office). That's a lot of lives and families destroyed by the MCAO. Time for an outside independent investigation.

Like Reply

Aug 7, 2013

truthseekeraz



A powerful example of integrity trumping politics.... Chicago

"Prosecutor says she quit after demotion for dropping charges in 'wilding' case" - Chicago Sun-Times

<http://www.suntimes.com/21770721-761/ex-prosecutor-i-was-demoted-for-dropping-charges-in-wilding.html>

Like Reply



truthseekeraz

Aug 7, 2013

Has an prosecutor from the Maricopa County Attorney's office ever shown this kind of integrity?

2 0 Like Reply



truthseekeraz

Aug 5, 2013

Radley Balko: The Unchecked Charging Power of the Prosecutor
http://www.huffingtonpost.com/radley-balko/prosecutor-power_b_1425084.html

"The prosecutor should be the gatekeeper," Gershman says. "He should see his job as administering justice, not getting convictions. That may mean you don't let juries hear cases if you aren't personally convinced of guilt. Unfortunately, we currently have a very low threshold for charging. It's just too low."

Like Reply



truthseekeraz

Sep 17, 2013

AZ: ex-MCAO DCA Aubuchon, chief charging prosecutor for Andrew Thomas; officially disbarred - violated ER 3.8(a) Ethics responsibility for prosecutors

<http://www.azcourts.gov/Portals/0/OpinionFiles/Supreme/2013/SB-12-0035-AP.pdf>

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the Honorable Lawrence F. Winthrop, Judge of the Court of Appeals, Division One, was designated to sit in this matter."

Like Reply



truthseekeraz

Aug 5, 2013

Folks should read this opinion:

Debra Milke v Ryan: 9th Circuit Opinion March 14, 2013

Turn to pg. 54 to read Chief Judge Kozinski's scathing report about Arizona's justice system.

<http://cdn.ca9.uscourts.gov/datastore/opinions/2013/03/14/07-99001>
web - corrected.pdf

1 Like Reply



truthseekeraz

Aug 5, 2013

Debra Milke's Motion to Remove MCAO. Of course, the MCAO came unprepared. Stall tactics are unacceptable for "professionals".

<http://ftpcontent.worldnow.com/kpho/KPHO NEWS/milkemotion.pdf>

Like Reply



truthseekeraz

Aug 5, 2013

In a civil society, what man has the right to play God with another man, woman or child's life? Certainly, not a fallible politician!

2 Like Reply



truthseekeraz

Aug 5, 2013

PROCESS TAKES "TOO LONG"..... HORNE CONSIDERS LEGAL ACTION IN ATTEMPT TO SPEED UP DEATH PENALTY CASES

By Gary Grado - gary.grado@azcapitoltimes.com Published: August 5, 2013 at 9:18 am

"The 11 convicted killers Arizona has executed since 2010 spent an average of 22 years on death row.

Attorney General Tom Horne thinks that is too long.

He also thinks suing the federal government will speed up the process, but others say that a successful lawsuit would bring few or no gains because Arizona lacks criminal defense attorneys who are qualified to do proceedings known as capital post-conviction relief and are willing to do it for \$100 an hour, the rate set in statute.

That has historically left the Arizona Supreme Court scrambling to find enough attorneys to handle the constant stream of death cases.

The result, at times, has been the appointment of unqualified lawyers.

The median hourly rate for an Arizona attorney is \$250 and the average is \$280, according the State Bar of Arizona's 2013 Economics of Law Practice survey.".....

Like Reply



truthseekeraz

Aug 5, 2013

How about ending the Death Penalty boondoggle that is used as tool by politicians for political and financial gain. The DP does not deter heinous crimes which continue daily. Torture by our government is a heinous crime.

Execution by the state, is murder by the state. An "eye for an eye" Old Testament?

Other conservative states are reforming laws, getting rid of Super Max prisons, reforming sentencing and saving taxpayers hundreds of millions of dollars that could be used for education, job training, rehabilitation and building stronger communities, while Arizona takes the state backwards.

Like Reply

This comment has been deleted



truthseekeraz

Aug 3, 2013

The Unchecked Charging Power of the Prosecutor by Radley Balko

http://www.huffingtonpost.com/radley-balko/prosecutor-power_b_1425084.html

1 Like Reply



azwi

Aug 3, 2013

Why, doesn't Bill Montgomery have any ethic himself? I'm finding Montgomery's integrity quite questionable!

3 Unlike Reply



shadeaux14

Aug 4, 2013

@azwi What integrity? He would have to have some in order for it to be questioned.

3 Unlike Reply



truthseekeraz

Aug 3, 2013

MCAO Bill Montgomery, a West Point graduate, should actually stick to the core principles of honor, integrity, and courage in the face of adversity -- his job as a "minister of justice". Or is this a problem with having a military man with a "shoot first, ask later" mentality, authoritarian figure -- handling the justice system which is supposed to be fair justice for all? This is NOT a military court but a civilian criminal justice court.

2 Like Reply



truthseekeraz

Aug 3, 2013

Great comment lost in the blog...

danzigsdaddy2 days ago

"so Monty doesnt want evidence that clears people to be reviewed or brought to light? he doesnt want people who are wrongly convicted to be able to clear their names? thats about par for the course in Maricopa county these days. Justice isnt just blind, she's being gagged and beaten too"

5 Like Reply

truthseekeraz

Aug 3, 2013



"The costs of the prolonged criminal litigation that prosecutorial misconduct can entail are staggering, through retrials—some defendants were tried as many as four times—and multiple appeals." from Preventable Error... (see link below)

1 Like Reply



truthseekeraz

Aug 3, 2013

... or is the problem because MCAO Montgomery is an elected politician, who serves his political agenda rather than as a 'minister of justice'? Time to end "politicized justice"

2 Like Reply



maz2331

Aug 2, 2013

The problem is that the prosecutor has no actual skin in the game, and much political capital to gain by being "tough". The only way to fix the system is to make the attack dogs liable personally for their bites when they mess up. They should do double the time and turn over their entire estate to those they railroaded.

3 Unlike Reply

This comment has been deleted



truthseekeraz

Aug 3, 2013

"The costs of the prolonged criminal litigation that prosecutorial misconduct can entail are staggering, through retrials—some defendants were tried as many as four times—and multiple appeals." from Preventable Error... by Law Professor Kathleen Ridolfi and Maurice Possley, investigative journalist.

Like Reply



truthseekeraz

Aug 3, 2013

@maz2331

Sunbelt Justice: Arizona and the Transformation of American Punishment - Mona Lynch

<http://www.sup.org/book.cgi?id=17521>

"In the late 20th century, the United States experienced an incarceration explosion. Over the course of twenty years, the imprisonment rate quadrupled, and today more than 1.5 million people are held in state and federal prisons. Arizona's Department of Corrections came of age just as this shift toward prison warehousing began, and soon led the pack in using punitive incarceration in response to crime. *Sunbelt Justice* looks at the development of Arizona's punishment politics, policies, and practices, and brings to light just how and why we have become a mass incarceration nation."

Like Reply



truthseekeraz

Aug 3, 2013

@maz2331

Given to the Maricopa County Attorney's office in 2010 and ignored:

"PM - Preventable Error: A Report on Prosecutorial Misconduct in

California" began the wave growing public awareness of prosecutorial misconduct.
<http://www.veritasinitiative.org/our-work/prosecutorial-misconduct/pm-preventable-error-a-report-on-prosecutorial-misconduct-in-california/>

Get the Report

Read Endorsements for the Report

"The report *Preventable Error: A Report on Prosecutorial Misconduct in California 1997-2009* marks the launch of the Veritas Initiative, NCIP's investigative watchdog organization devoted to advancing the integrity of our justice system through research and data-driven reform, using the work of our preeminent experts in the field. By shining a light on issues like prosecutorial misconduct, the Veritas Initiative and the studies it publishes will serve as a catalyst for reform.

What We Do and Who We Are

What we do:

The costs of the prolonged criminal litigation that prosecutorial misconduct can entail are staggering, through retrials—some defendants were tried as many as four times—and multiple appeals. This initiative is an investigative watchdog devoted to advancing the integrity of our justice system through research and data-driven reform. Using the work of preeminent experts in the field from the highly respected legal resource, the Northern California Innocence Project, this group is working to shine a light on our justice system to ensure fairness and accountability.

The research on prosecutorial accountability is the most comprehensive, up-to-date, quantitative and actionable study on how attorney accountability plays a part in wrongful conviction. Using the work of Kathleen Ridolfi and Maurice Possley, preeminent experts in the field, it assesses and measures attorney accountability in California justice system, identifying flaws and recommending remedies.

This research is only the first step to addressing flaws in our system and taking meaningful action to ensure accountability and fairness in our system."

Like Reply

truthseekeraz

Aug 3, 2013

@maz2331DECEMBER 11, 2010 09:54

In Wake of Glover Verdict, What's Next for New Orleans' Troubled Police Force

"I've been reporting in New Orleans for more than three years, and I can say I've never encountered more people who are terrified of the police. Looking at the sad and awful death of **Henry Glover**, it's easy to see why."

Click [here](#) to read ProPublica reporter A.C. Thompson's reflection and analysis of the Glover verdict. In 2008, Thompson's initial investigation **story** of Glover's death sparked the federal investigation into the case.

Like Reply



Dontbelieveit

Aug 2, 2013

When I think of justice in Maricopa Countya picture of the three monkey's comes to mindHear no Evil..... Speak no Evil and See no EvilThe justice system has for far too long been one of the most.....if not THE MOST CORRUPT JUSTICE SYSTEM IN THE COUNTRYBAR NONE!

4 Unlike Reply



truthseekeraz

Aug 2, 2013

You hit the bull's eye.

2 Like Reply



timdlittle

Aug 2, 2013

Why would a state Oligarchy want any sort of ethical standards in place?
Arizona did not get on the top ten list of dirty state Governments for nothing.
Montgomery is a gangster with a law degree and a elected position. scary.

3 Unlike Reply



truthseekeraz

Aug 3, 2013

@timdlittle He had a chance to "right the wrongs" but we guess the \$500,000 from the Maricopa County Sheriff arpaio's campaign \$\$\$'s, speaks volumes. There is no fair justice system in Arizona until the DOJ and the public deal with this non-existent justice system.

2 Like Reply



Timothy D Little from Facebook

Aug 2, 2013

why do we have so many dicks?

Like Reply



Gary Waterman from Facebook

Aug 2, 2013

I am typically very critical of NT reporting but on this subject I couldn't agree more. There is no reason one could give that would make me agree that a wrongfully convicted person should remain sentenced for 1 additional minute if the information to correct the situation is in hand. And I certainly don't think such situations being "burdensome to the prosecutors office" should be given any weight at all. I'm going to go out on a limb here and guess that sitting on death row, serving a life sentence, serving a shorter term or having your life, career and reputation erroneously destroyed might be considered "burdensome" at the least to the person involved. Such cases should be given the highest of priority. Those involved should be immediately notified and be given full latitude to meet with attorneys and be given the option of being moved to Administrative Segregation while the matter is quickly looked into. Prisons have a weird social system and this persons name appearing in the media when a situation like this comes up could put them in danger. In short, if the information leads us to believe a mistake has occurred, we need to recognize it for what it is. It's a travesty of our justice system and every attempt should be made to correct it as quickly as possible. We also need to recognize that if this has occurred we have put an innocent person into a snake pit where violent crime is 75% higher than it is on the streets. It would be our duty to make reasonable attempts to protect this person (since we have removed their ability to do that for themselves) and separate them from that environment quickly. AdSeg would be the best option at that point.

Like Reply



truthseekeraz

Aug 5, 2013

@Gary Watermantruthseekeraz

PROCESS TAKES "TOO LONG"..... HORNE CONSIDERS LEGAL ACTION IN ATTEMPT TO SPEED UP DEATH PENALTY CASES

By Gary Grado - gary.grado@azcapitoltimes.com Published: August 5, 2013 at 9:18 am

"The 11 convicted killers Arizona has executed since 2010 spent an average of 22 years on death row.

Attorney General Tom Horne thinks that is too long.

He also thinks suing the federal government will speed up the process, but others say that a successful lawsuit would bring few or no gains because Arizona lacks criminal defense attorneys who are qualified to do proceedings known as capital post-conviction relief and are willing to do it for \$100 an hour, the rate set in statute.

That has historically left the Arizona Supreme Court scrambling to find enough attorneys to handle the constant stream of death cases.

The result, at times, has been the appointment of unqualified lawyers.

The median hourly rate for an Arizona attorney is \$250 and the average is \$280, according to the State Bar of Arizona's 2013 Economics of Law Practice survey.".....

Like Reply

Hector Joe Mora from Facebook

Aug 2, 2013

I wish people like this would go away soon .

Like Reply

Cozz

Aug 2, 2013

Doesn't surprise me a bit that Montgomery and the County Attorneys Office would fight anything that requires them to be ethical.

When you've been unethical as long as they have, change is very difficult.

3 Like Reply

FRONTERA

Aug 1, 2013

Border Patrol Agents Named In Tasing Death CaseA dozen federal agents were named in a case involving the tazing death of an immigrant in deportation proceedings at the San Diego border July 31, 2013 Michel Marizco

1 Like Reply

Karyl Krug from Facebook

Aug 1, 2013

I was going to say, only a complete dick would oppose revealing evidence of factual, actual innocence. Plus, this particular case is in a pretrial posture and he's absolutely required to reveal that stuff under Brady, anyway. Is the Phoenix New Times ever going to cover the story that I was fired as a Capital Staff Attorney for reporting the other Capital Staff Attorney to the State Bar, as they said I had to, for fraudulently using the title "attorney" while advising judges statewide in death penalty cases from 2007-2012? And she also represented in a grant request to the Arizona Supreme Court to fund our jobs that we were both longstanding criminal attorneys and criminal law specialists, when she is neither? She co-authored papers with judges, presented CLEs to lawyers and judges, for years, all without telling anyone that she was not a licensed attorney? The AZ Supreme Court, in turn, changed her title and changed the parameters for how these particular grant funds could be used to include the newly formed "Capital Litigation Law Clerks." So they covered up grant fraud to protect about 7 years of capital murder convictions. Oh, and it's not a crime to pretend to be a lawyer in Arizona, whereas it's a third degree felony in Texas if your bar card expires for

even administrative reasons mid-trial. I've been waiting for you guys to contact me for over a year. I have the "consent decree" worked out between the bar and the non-lawyer right here. I've also been blackballed from working in my field here in Maricopa County, which has turned out to be just as much fun as nationally advertised before we moved here in August 2011. It never occurred to me that Sheriff Joe might just be the tip of an iceberg. I didn't sue because I thought there were too many "public servants" feeding at the public trough because of Andrew Thomas. I thought it was unseemly. I thought I would just go out and get a different job. Wrong!

3 Unlike Reply



Eleanor Holguin

Aug 2, 2013

@Karyl Krug If the statute of limitations hasn't expired I would recommend you find a good, ethical attorney.

3 Unlike Reply



truthseekeraz

Aug 5, 2013

@Karyl Krug

truthseekeraz

PROCESS TAKES "TOO LONG"..... HORNE CONSIDERS LEGAL ACTION IN ATTEMPT TO SPEED UP DEATH PENALTY CASES

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The median hourly rate for an Arizona attorney is \$250 and the average is \$280, according the State Bar of Arizona's 2013 Economics of Law Practice survey.".....

Like Reply



truthseekeraz

Aug 1, 2013

Montgomery lacks the education and experience to understand wrongful convictions. Another reason why he and his office should not be handling the Debra Milke case.

http://www.huffingtonpost.com/2013/08/01/prosecutorial-misconduct-new-orleans-louisiana_n_3529891.html

The Untouchables: America's Misbehaving Prosecutors, And The System That Protects Them

A CULTURE OF CONVICTION

The particularly striking thing about that argument -- that self-regulation and professional discipline are sufficient to handle prosecutorial misconduct -- is that even in the specific Supreme Court cases where it has been made, and where the misconduct is acknowledged, the prosecutors were never disciplined or sanctioned. None of the prosecutors in *Pottawottamie v. McGhee* suffered professional repercussions for manufacturing evidence, for example. Neither did any of the men who prosecuted Thompson. In fact, there's a growing body of empirical data showing that the legal profession isn't really addressing prosecutorial misconduct at all.

- In 2003, the Center for Public Integrity looked at more than 11,000 cases involving misconduct since 1970. Among those, the center found a little over 2,012 instances in which an appeals court found the misconduct material to the conviction and overturned it. Less than 50 cases resulted in any professional sanction for the prosecutor.

- In 2010, USA Today published a six-month investigation of 201 cases involving misconduct by federal prosecutors. Of those, only one prosecutor "was barred even temporarily from practicing law for misconduct." The Justice Department wouldn't even tell the paper which case it was, citing concern for the prosecutor's privacy.


- A 2006 review in the Yale Law Journal concluded that "[a] prosecutor's violation of the obligation to disclose favorable evidence accounts for more miscarriages of justice than any other type of malpractice, but is rarely sanctioned by courts, and almost never by disciplinary bodies."

- An Innocence Project study of 75 DNA exonerations -- that is, cases where the defendant was later found to be unquestionably innocent -- found that prosecutorial misconduct factored into just under half of those wrongful convictions. According to a spokesman for the organization, none of the prosecutors in those cases faced any serious professional sanction.

- A 2009 study (PDF) by the Northern California Innocence Project found 707 cases in which appeals courts had found prosecutor misconduct in the state between 1997 and 2009. But of the 4,741 attorneys the state bar disciplined over that period, just 10 were prosecutors. The study also found 67 prosecutors whom appeals courts had cited for multiple infractions. Only six were ever disciplined.

- Most recently, in April, ProPublica published an investigation of 30 cases in New York City in which prosecutor misconduct had caused a conviction to be overturned. Only one prosecutor was significantly disciplined.

3   Like Reply

 truthseekeraz

Aug 1, 2013

Mr. Lemons, Thanks for covering ER 3.8 ethics responsibility for prosecutors. Note that the MCAO Montgomery and his chief deputy (who was also Andrew Thomas chief deputy) Mark Faull say in their responses there are NO wrongful convictions in Arizona, no new evidence, no exculpatory evidence, AFTER the 9th Circuit Court Opinion overturning Mlike's conviction and sentence. The AG on the day of the deadline, May 20th, states there are NO Brady violations. The folks are being played for fools by these top law enforcers who have absolute immunity and are accountable to no one.

Time for TERM LIMITS for the Maricopa County Attorney and the Maricopa County Sheriff who have turned Arizona into a "prison state". If you think its not about you, think again. ALL are at risk to be thrown into Arizona "business model" --- a mass industrial prison complex.

3   Like Reply

truthseekeraz

Aug 1, 2013

The Untouchables: America's Misbehaving Prosecutors, And The System That Protects Them
http://www.huffingtonpost.com/2013/08/01/prosecutorial-misconduct-new-orleans-louisiana_n_3529891.html
 FOLLOW: Supreme Court, Video, Harry Connick Sr, Harvey Silverglate, Innocence Project, John Thompson, New Orleans District Attorney, Orleans Parish, Prosecutor Misconduct, Absolute Immunity, Criminal Justice, Huffmag, Prosecutorial Immunity, Prosecutorial Misconduct, Prosecutorial Misconduct Louisiana, Prosecutorial Misconduct New Orleans, Sam Dalton, Shareef Cousin, Politics News "NEW ORLEANS -- Some questions seem particularly prone to set John Thompson off. Here's one he gets a lot: Have the prosecutors who sent him to death row ever apologized? "Sorry? For what?" says Thompson. The 49-year-old is lean, almost skinny. He wears jeans, a T-shirt and running shoes and sports a thin mustache and soul patch, both stippled with gray. "You tell me that. Tell me what the hell would they be sorry for. They tried to kill me. To apologize would mean they're admitting the system is broken." His voice has been gradually increasing in volume. He's nearly yelling now. "That everyone around them is broken. It's the same motherfucking system that's protecting them."

2 Like Reply

truthseekeraz

Aug 1, 2013

Debra Milke's Motion to remove MCAO. Of course, the MCAO came unprepared. Stall tactics are unacceptable for "professionals".
<http://ftpcontent.worldnow.com/kpho/KPHO-NEWS/milkemotion.pdf>

2 Like Reply

Highern Chef from Facebook
 Because He is a Dick!!!

Aug 1, 2013

2 Like Reply

Vilardi Gardens from Facebook
 What??

Aug 1, 2013

Like Reply

Warren Klotkorn from Facebook
 Not surprised in the least.

Aug 1, 2013

1 Like Reply

Eleanor Holguin
 Of course he does. Most unethical people don't want real justice.

Aug 1, 2013

3 Unlike Reply

Swoosh
 This is a prime reason why I do not vote for Democrips or Rebloodicans.
 Thank You Mr. Montgomery for showing exactly who I always knew you were.

Aug 1, 2013

2 Unlike Reply

truthseekeraz

Aug 2, 2013

Your comment is spot-on!



Like Reply



danzigsdaddy

Aug 1, 2013

so Monty doesnt want evidence that clears people to be reviewed or brought to light? he doesnt want people who are wrongly convicted to be able to clear their names? thats about par for the course in Maricopa county these days. Justice isnt just blind, she's being gagged and beaten too

5 Unlike Reply



teknik

Aug 1, 2013

@danzigsdaddy hey, that body is a commodity for our private prison industry.

7 Unlike Reply



truthseekeraz

Aug 2, 2013

Well informed spot-on comment!

1 Like Reply



truthseekeraz

Aug 3, 2013

@danzigsdaddy

In a civil society, what man or woman has the right to play God with another person's life? Especially, a political and elected official who have an agenda?

1 Like Reply



danzigsdaddy

Aug 3, 2013

@truthseekeraz they arent playing God anymore.....more like the devil

1 Unlike Reply



NWEng

Aug 1, 2013

It just goes to show that those who vote for the likes of Arpaio, Horne, Thomas, and Montgomery, should really look to breed outside their own family tree.

8 Like Reply



marcy

Aug 1, 2013

If Arizona doesn't have a problem with wrongful convictions they Monty shouldn't have a problem with the proposed legislation.

6 Like Reply



truthseekeraz

Aug 3, 2013

@marcy

Arizona Supreme Court Rules Forum Case No: R-11-0033

<http://azdnn.dnnmax.com/tabid/91/forumid/7/view/topic/postid/1530/afsort/DESC/Default.aspx>

Like Reply



david_saint01

Aug 1, 2013

a REAL West Point man wouldnt act the way Monty pug does...you can stop claiming you are one now poodle, when you do you embarrass the many fine men that have graduated and actually STUCK to the core principles of honor, integrity, and courage in the face of adversity.

6 Like Reply

40

truthseekeraz

Aug 3, 2013

100%

@david_saint01

In a civil society, what man or woman has the right to play God with another person's life? Especially, a political and elected official who have an agenda?

Like Reply

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Moreno, Blanca

From: Slater Law Office
Sent: Thursday, June 20, 2019 7:10 PM
To: JNC - Judicial Nominating Commissions
Subject: Arizona Supreme Court Applicant William Montgomery - Please Do Not Appoint
Attachments: William Montgomery Email to the State Bar & ER8.4 Task Force - Copy.pdf; R-15-0014 Rule Change Petition - Copy.pdf; William Montgomery Opposition to Rule Change Petition - Copy.pdf; Rule Change Petition Reply Memorandum - Copy.pdf

Importance: High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Commission on Appellate Court Appointments:

I'm a 30-year Arizona attorney and an honorably discharged commissioned-officer (Captain) from the U.S. Army Reserve (Field Artillery). My military service included time in the Arizona Army National Guard.

I'm writing to communicate that Applicant William Montgomery has objectively demonstrated his lack of experience, fitness and temperament to serve on the Arizona Supreme Court.

I communicate this opinion based largely on my personal experiences with the applicant. My experiences include having tried to work alongside him on an Arizona State Bar task force and having litigated against him before the Arizona Supreme Court on a rule-change petition.

As demonstrated below, the evidence reflects that the applicant lacks any experience as a judge in any court. For that reason alone, the applicant should be viewed as an inferior candidate for appointment to the Arizona Supreme Court.

Also, the applicant has shown that he is inclined to abuse his power with respect both to democratically-deliberative bodies and Arizona's minority populations, particularly Arizona's Transgender Community.

One stark example of the applicant's abuse of power can be seen below in his communication of an inappropriate and destructive threat to the State Bar of Arizona ("SBA"). He communicated the threat in his official capacity as Maricopa County Attorney after having been outvoted by a deliberative SBA task-force on which he, I and many other volunteer attorneys served. His threat was that he would lead an effort to dismantle the SBA if the SBA followed the recommendations of a majority of the task-force's voting members.

Another example of the applicant's abuse-of- power involves his taking of a hostile position as Maricopa County Attorney against an Arizona Supreme Court rule-change petition. As demonstrated below, that petition was one I filed with other Arizona attorneys to try to end discrimination against transgender Arizonans in state-court proceedings.

The applicant's abuses-of-power are shown below to have been committed with disregard for arguably applicable lawyer-ethics rules.

Finally, the circumstances suggest that the applicant may possess nefarious and destructive motives for seeking appointment to the Court.

I. LACK OF EXPERIENCE AS A JUDGE.

The applicant acknowledges in paragraphs 27, 28, 64 and 65 of his original application that he has never served as a judge or justice in any court.

His lack of judicial experience alone arguably precludes him from being capable of passing credible judgment on the appealed decisions of real judges serving in Arizona's trial courts and appellate courts.

II. EVIDENCE OF CONTEMPT FOR DELIBERATIVE BODIES

In 2012, the applicant communicated a threat to the State Bar of Arizona in order to circumvent having been outvoted on a deliberative SBA body.

That body was the *SBA Task Force on Lawyer Ethics Rule 8.4* (a Task Force which the applicant acknowledges having been appointed to in paragraph 53 of his original application).

It was on that Task Force that I became personally acquainted with the applicant. This is because I was one of the other many attorneys appointed to that Task Force.

I have attached a copy of the applicant's threatening email message, which he sent to all of us on the Task Force, including the SBA's administrative participants. If necessary, the Commission may independently obtain a copy of the applicant's emailed threat directly from the SBA via a Public Records Request made to the SBA's Records Custodian.

As a Task Force recipient of the applicant's written threat, I am willing to lay any necessary foundation (here and where otherwise needed) to explain the circumstances surrounding the applicant's written threat.

By way of background, the Task Force was established by the SBA for the purpose of bringing together multiple attorney-volunteers from diverse social backgrounds to evaluate whether *Ethics Rule 8.4* warranted updating (and if so, in what ways).

Specifically, the Task Force was charged with determining whether ER8.4 provides adequate protections for minority groups including other potentially vulnerable Arizonans like those who identify as gay or transgender.

The language of ER8.4 includes general provisions that prohibit attorneys from undermining the fair administration of justice. In Comment (3) to the rule (added on December 1, 2003), there is specific reference to the fact that an attorney may violate ER8.4 if while representing a client he engages in bias or prejudice toward those people belonging to a specified list of protected classes.

After months of careful deliberations, the Task Force attorneys determined and voted by more than a majority of their members that the Task Force would recommend to the SBA that the SBA seek an amendment to ER8.4. The recommendation was that the SBA should seek enhanced protections for the classes of potentially vulnerable people listed in Comment (3) of ER8.4.

Specifically, the Task Force recommended that the Comment (3) admonition against bias and prejudice be moved into the actual body of ER8.4's language. The Task Force also recommended that enhanced protections be provided to Arizona's transgender population via addition of the words "and expression" immediately following the rule's existing reference to "gender identity".

It was immediately after the Task Force's vote (and after the applicant's loss on that vote) that the applicant sent his written threat of retaliation to the Task Force members and to the SBA's participating administrators. As the Commission can see in his attached message, he gave the SBA an ultimatum that the Bar either disregard the Task Force's recommendations or face having the applicant lead an effort to dismantle the SBA in its existing and longstanding structure.

While it would likely require the applicant's involvement of the Legislature and/or the Arizona Supreme Court to carry out such a threat of retaliation, this was a realistic endeavor for him. His position as the Maricopa County Attorney gives him considerable political influence.

Such a threat (to dismantle the SBA), if carried out, would not only jeopardize the livelihoods of all SBA employees it would also thrust into chaos Arizona's legal community, Arizona's citizens and Arizona's Supreme Court. This is because the legal community, citizens and the Court all rely upon the SBA to provide regulation of the legal profession.

Given the serious potential consequences of the applicant's threatened ultimatum, the SBA acquiesced by permanently shelving the Task Force's recommendations. In the end, the hard work and time devoted by many attorney-volunteers over a period of several months was completely lost and wasted.

All of the foregoing reflects that the applicant harbors outright contempt for the democratic processes of deliberative bodies like the SBA and its task forces. This is particularly true when the applicant is outnumbered and has been out-voted.

Given that the Arizona Supreme Court is a deliberative body that administers justice via democratic-votes cast by justices, the applicant's destructive behaviors with the SBA show that he is not suited for the Court's deliberative structure or for its rules of order.

It does not matter that the applicant might not necessarily use direct threats against fellow justices to disrupt the Court's deliberations. He has demonstrated the cunning capability of striking sufficient intimidation through indirect means. For example, he could simply threaten hostile action against those Causes (or organizations) which other justices hold dear.

Nor does it matter whether any of the applicant's efforts to coerce others on the Court would ever prove successful. His demonstrated tendencies for heavy-handedness, in themselves, would likely become a factor which undermines the administration of justice on the Court. At a minimum, he would likely foster a hostile work-environment there.

III. EVIDENCE OF CONTEMPT FOR MINORITIES

The applicant's brazen conduct with respect to the SBA also reflects his contempt for minorities, particularly the Transgender Community.

This contempt can also be seen in the applicant's hostile opposition to a Year-2015 petition filed jointly by me and others before the Arizona Supreme Court.

My petition sought enhancement of protections for the Transgender Community in state court proceedings via addition of the words "gender identity" to the list of protected classes identified in *Judicial Canon 2.3*.

JC2.3 is the judicial-ethics rule which prohibits judicial officers from allowing any improper bias or prejudice to occur in their court proceedings with respect to people comprising a list of protected classifications. That list of protected classes does not include any references to transgender people or even "gender identity".

For your convenience, I'm attaching copies of my filed rule-change petition (numbered R-15-0014) along with the applicant's hostile response and my reply which followed.

As the Commission will see, the applicant argued in his official capacity as Maricopa County Attorney that transgender people essentially do not exist and do not deserve any protections.

IV. POSSIBLE VIOLATION OF ETHICS RULES.

In communicating his written threat to the SBA, the applicant made abundantly clear that he was communicating in his official capacity as the Maricopa County Attorney.

As such, the applicant purported himself to be acting in a representative manner on behalf of the people of Maricopa County when making that threat.

Given this official representative capacity, the applicant may have violated *Ethical Rule 4.4*. That rule addresses "Respect for Rights of Others" and prohibits a lawyer while representing others from using any means that has no substantial purpose other than to embarrass or burden others.

The applicant's threat against the SBA also may have been a violation of ER8.4(e). That rule prohibits a lawyer from stating or implying an ability to improperly influence a government agency or official. In this case, the improper influence would be with respect to the legislature (with its many elected officials) and the SBA (which serves as an administrative arm of the Arizona Supreme Court).

ER8.4(e) also prohibits a lawyer from stating or implying an ability to achieve any results (like the applicant's threat of dismantling of the SBA) by means that violate the Rules of Professional Responsibility. In this case, the applicable broken-rule would be the aforementioned ER4.4 which mandates respect for the rights of others without the wrongful imposition of unrelated and unwarranted burdens.

Nobody dared to raise the foregoing (or any other) ethical challenges to the applicant's abuses. It was clear that the applicant had effectively frightened and paralyzed the sole administrative body (the SBA) which would have been responsible for conducting any disciplinary review.

In the foregoing improper ways, the applicant succeeded in elevating himself above the SBA and applicable laws.

V. POSSIBLE ULTERIOR MOTIVES.

The Commission should consider the prospect that the applicant is seeking appointment to the Arizona Supreme Court in order to use newly gained power to destroy democratic institutions.

These institutions logically would include the SBA, for which he has already demonstrated vicious contempt.

His goals might even include dismantling Arizona's *Judicial Merit Selection* system. Doing so might allow him to assist those wealthy special-interest groups with whom he aligns to begin placing their preferred candidates into key judicial positions.

VI. CONCLUSION.

While Arizona has many virtues, it also faces many challenges.

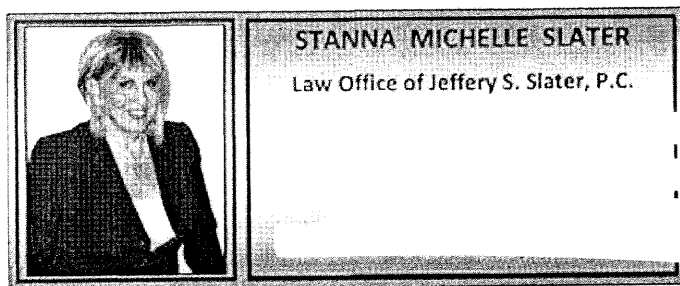
The State's prosperity in the 21st Century will depend upon the ability of its democratically deliberative bodies, particularly its Supreme Court, to function free of inexperience and those who manipulate outcomes via wrongful threats of intimidation.

The applicant has objectively shown profound shortcomings that make his proposed appointment to the Court potentially catastrophic for Arizona.

For these reasons, the applicant should not be considered for appointment.

If you would like to discuss any of the forgoing or if you need additional information/documentation, please email or call via the means identified below.

Sincerely,
Stanna Michelle Slater



From: Montgomery Bill [mailto:_____]

Sent: Monday, November 19, 2012 8:56 AM

To: Carrie Sherman; Alan Bayham; Ann K. Leslie; Brett Harvey; Bryan Chambers; Claudia Work; Dianne Post; Gaetano Testini; Gary McCaleb; Jeffery Slater; John F. Phelps; Kami Hoskins; Kina Harding; Faull Mark; Melissa Ho; Michael Crawford; Molly Newburn; Patricia Sallen; Rod Galarza; Suzanne Diaz; Virginia Herrera-Gonzales

Subject: RE: ER 8.4 Task Force - Update

Thanks for the update, Carrie.

I feel compelled to reiterate what I shared at our last meeting: there is a growing sentiment among attorneys that if the State Bar approves the further segmentation of our community along the lines proposed, an unnecessary distinction/segmentation given our common humanity as I have expressed, there will be a strong effort to render membership voluntary with a requisite change in the manner of regulating our profession.

Sincerely,

Bill Montgomery
Maricopa County Attorney

From: Carrie Sherman [mailto:_____]

Sent: Monday, November 19, 2012 8:44 AM

To: Alan Bayham; Ann K. Leslie; Montgomery Bill; Brett Harvey; Bryan Chambers; Carrie Sherman; Claudia Work; Dianne Post; Gaetano Testini; Gary McCaleb; Jeffery Slater; John F. Phelps; Kami Hoskins; Kina Harding; Faull Mark; Melissa Ho; Michael Crawford; Molly Newburn; Patricia Sallen; Rod Galarza; Suzanne Diaz; Virginia Herrera-Gonzales

Subject: ER 8.4 Task Force - Update

All: On Friday the Board of Governors' Rules Committee considered the Task Force's proposal (attached). The Committee made no modifications to it and will present the proposal to the full Board on November 30 as an informational item. The Board is scheduled to vote on this matter at its December 14 meeting. Carrie



Carrie Sherman, Director of Board Operations

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T: 602.340.7201 F: 602.416.7401

EMAIL: Carrie.Sherman@azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

1 Jeffery S. Slater (SBA#012889)
2 JEFFERY S. SLATER, P.C.
3 Scottsdale, Arizona
4 Telephone: (480) 560-9602
5 Email: _____

6
7 **IN THE SUPREME COURT**
8 **STATE OF ARIZONA**
9

10 PETITION TO AMEND CANON 2.3,
11 RULE 81, ARIZONA RULES OF
12 THE SUPREME COURT

Supreme Court No. R-

**Petition to Amend
Canon 2.3 in Rule 81
of the
Arizona Rules of the Supreme Court**

13 Pursuant to Rule 28 of the *Arizona Rules of the Supreme Court*, 10 attorneys
14 named below petition the Court to amend *Judicial Canon 2.3 of Ariz.R.Sup.Ct.81*.

15 I. SUMMARY.

16 The purpose for this petition is to request that the canon governing judges (and
17 their staffs) from engaging in improper bias and prejudice be conformed to the
18 corresponding ethics rule which governs lawyer bias and prejudice.

19 Despite the arguable fact that judges (and their staffs) should be held to at
20 least the same standards applicable to lawyers, *Judicial Canon 2.3* fails to hold
21 judges (or their staffs) to all of the standards applicable to lawyers.

22 The shortcoming in *JC2.3* is found in the canon's failure to provide protection
23 for "*gender identity*", which is expressly recognized for protection in a key comment
24 to the corollary ethics rule applicable to lawyers (i.e. Comment 3 of *Ethics Rule 8.4*,
25 *Ariz. R.Sup.Ct.42*).

26 "Gender identity" refers to a person's internal sense of being male or female
independent of their sexual orientation or their sex designation assigned at birth.

1 Because a person's gender identity may be different from their sex assigned at
2 birth, the outward manifestation of their gender identity may not conform to
3 traditional gender norms/expectations. This inconsistency is known as "gender non-
4 conformity", a condition common among the transgender component of society.

5 Those who are transgender are often subjected to discrimination due to their
6 gender non-conformity, which accounts for efforts by some governmental entities
7 (but unfortunately not all) to adopt protections pertaining to "gender identity".

8 This Court should affirmatively protect gender identity by adding the words
9 "gender identity" to the list of protections set forth in *JC2.3*.

10 II. *JC2.3* FAILS TO CONFORM TO THE LAWYERS' ETHICS RULE.

11 Comment [3] of *ER8.4* identifies each and all of the improper bases on which
12 lawyers should not knowingly manifest bias or prejudice through their words or
13 conduct while representing a client.

14 The list of these bases specifically includes protection for **gender identity**:

15 A lawyer who in the course of representing a client, know-
16 ingly manifests by words or conduct, bias or prejudice
17 based upon race, sex, religion, national origin, disability,
18 age, sexual orientation, **gender identity** or socioeconomic
19 status violates [*ER8.4(d)*] when such actions are prejudi-
cial to the administration of justice. [Bold print and
brackets added.]

20 *See, Comment [3] to ER8.4.*

21 *JC2.3*, which is arguably the judicial counterpart to *ER8.4*, lists the bases on
22 which judges and their staffs likewise should not engage in bias or prejudice by their
23 words or conduct in the performance of judicial duties.

24 Unlike *ER8.4*, however, *JC2.3* does not include "gender identity" or any other
25 protective language of a similar nature:

26 (A) A judge shall perform the duties of judicial office,

including administrative duties, without bias or prejudice.

- (B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials or others subject to the judge's direction and control to do so.
- (C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.
- (D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

See, JC2.3.

III. GENDER IDENTITY DESERVES EXPRESSED PROTECTION.

Various government entities, particularly within the United States federal government, have published information regarding "gender identity" and the need for its expressed protection from bias and discrimination.

The sources of this information are too numerous to try to identify in this petition. For efficiency's sake, the petitioner directs the Court to the publications of the following two federal government authorities: (1) the U.S. Office of Personnel

1 Management (“OPM”); and (2) the U.S. Equal Employment Opportunity
2 Commission (“EEOC”).¹

3 The OPM, as the staffing agency for the U.S. government, defines “gender
4 identity” as one’s sense of gender, which if different from the sex assigned at birth
5 makes one “transgender” and necessitates protection from workplace discrimination:

6 It is the policy of the Federal Government to treat all of its
7 employees with dignity and respect and to provide a work-
8 place that is free from discrimination whether that discrimina-
9 tion is based on race, color, religion, sex (including **gender**
10 **identity** or pregnancy), national origin, disability, political af-
11 filiation, marital status, membership in an employee organiza-
12 tion, age, sexual orientation, or other non - merit factors.
13 **Agencies should review their anti-discrimination policies to**
14 **ensure that they afford a non-discriminatory working envi-**
15 **ronment to employees irrespective of their gender identity**
16 **or perceived gender non-conformity.**

17 * * *

18 *Gender identity* is the individual’s internal sense of being male
19 or female. Gender identity is generally determined in the early
20 years of an individual’s life and, if different from the indivi-
21 dual’s physical gender, may result in increasing psychological
22 and emotional discomfort and pain. The way an individual ex-
23 presses his or her gender identity is frequently called “gender
24 expression,” and may or may not conform to social stereo-
25 types associated with a particular gender.

26 *Transgender:* Transgender individuals are people with a gender
identity that is different from the sex assigned to them at birth
... [Italics and quotations in original with bold print added.]

See, excerpt from the OPM website at: www.opm.gov/policy-data-oversight/diversity-and-inclusion/reference-materials/gender-identity-guidance/, a
copy of which is attached as Exhibit A to this petition.

1 The EEOC, in fashion similar to the OPM, recognizes the correlation between
2 “gender identity” and transgender status along with the associated risks of workplace
3 discrimination, and thus has issued rulings to try to reduce such discrimination:

4 The EEOC enforces the prohibitions against employment
5 discrimination in Title VII of the Civil Rights Act of 1964,
6 the Equal Pay Act of 1963, the Age Discrimination in Em-
7 ployment Act of 1967, Sections 501 and 505 of the Rehabi-
8 litation Act of 1973, Titles I and V of the Americans with
9 Disabilities Act of 1990 (ADA), Title II of the Genetic In-
10 formation Non-discrimination Act (GINA), and the Civil
11 Rights Act of 1991. These laws prohibit discrimination
12 based on race, color, sex, religion, national origin, age, dis-
13 ability, and genetic information, as well as reprisal for pro-
14 tected activity. The Commission’s interpretations of these
statutes apply to its adjudication and enforcement in federal
sector as well as private sector and state and local govern-
ment.

11 **The EEOC has held that discrimination against an indi-
12 vidual because that person is transgender (also known
13 as gender identity discrimination) is discrimination be-
14 cause of sex and therefore is covered under Title VII of
the Civil Rights Act of 1964. See *Macy v. Department of
Justice*, EEOC Appeal No. 0120120821 (April 20, 2012),
(Web citation omitted) . . . [Bold print added.]**

15 See, excerpt of the EEOC website at: www.eeoc.gov/federal/otherprotections.cfm, a
16 copy of which is attached as Exhibit B.

17 IV. CONCLUSION.

18 From the foregoing, the Court can see that “gender identity” is a basis upon
19 which there tends to exist, but should not be, bias and discrimination.

20 Efforts by various government entities, including this Court in its
21 implementation of *ER8.4*, reflect legitimate admonitions against such bias and
22 discrimination.

23 To conform the Arizona judicial canon pertaining to bias and discrimination to
24 these existing standards, the Court should modify *JC2.3* to include “gender identity”
25 as a basis for protection.
26

1 Attached as Exhibit C is the proposed new version of *JC2.3* (with redlined
2 additions of the words “gender identity” where appropriate).

3 **RESPECTFULLY SUBMITTED** this 9th day of January, 2015.

4 /s/ Jeffery S. Slater (State Bar #012889)

5 /s/ Amelia C. Cramer (State Bar #018297)

6 /s/ Louis A. Goodman (State Bar #007399)

7 /s/ Richard K. Mahrle (State Bar #005166)

8 /s/ James E. Barton, II (State Bar #023888)

9 /s/ Andrew Shackelford (State Bar #027911)

10 /s/ Andrea L. Crawford (State Bar #028706)

11 /s/ John Phebus (State Bar #015964)

12 /s/ Jessica M. Hernandez (State Bar #021818)

13 /s/ Claudia D. Work (State Bar #018701)

14 Electronic version (with exhibits) filed with the Clerk of the Supreme Court of
15 Arizona this 9th day of January, 2015.

16 By: /s/ Jeffery S. Slater

17 i The governmental information cited herein qualifies as admissible evidence
18 worthy of judicial notice for the following reasons: (1) the information is “self-
19 authenticating” pursuant to the “Official Publications” distinction set forth in Rule
20 902(5) of the *Arizona Rules of Evidence*; (2) it meets the “Public Records” exception
21 to the hearsay rule pursuant to *Ariz.R.Evid.803(8)*; and (3) the information qualifies
22 for judicial notice pursuant to *Ariz.R.Evid.201(b)(2)*, because it can be accurately and
23 readily determined from sources (i.e. the government) whose accuracy cannot
24 reasonably be questioned. *See, e.g., Pedersen v. Bennett*, 230 Ariz. 556, 559, 288
25 P.3d 760, 763 (Ariz.2012) (judicial notice appropriate for online information posted
26 by the Arizona Department of State); *Poll v. Stryker Sustainability Solutions, Inc.*,
2014 U.S. Dist. LEXIS 6309 (D. AZ. Jan.17, 2014) (judicial notice appropriate for
online information posted by the United States Food & Drug Administration); and
E.E.O.C. v. E.I. du Pont de Nemours & Co. (E.D. La. Oct. 18, 2004), No. 03-1605,
2004 U.S. Dist. LEXIS 20753.

1 **WILLIAM G. MONTGOMERY**
2 **MARICOPA COUNTY ATTORNEY**
3 **(FIRM STATE BAR NO. 0003200)**

4 **MARK FAULL**
5 **CHIEF DEPUTY**
6 **301 WEST JEFFERSON STREET, SUITE 800**
7 **PHOENIX, ARIZONA 85003**
8 **TELEPHONE: (602) 506-3800**
9 **(STATE BAR NUMBER 011474)**

10 **IN THE SUPREME COURT OF THE STATE OF ARIZONA**

11 **IN THE MATTER OF:**

12 **PETITION TO AMEND CANON 2.3**
13 **IN RULE 81 OF THE ARIZONA**
14 **RULES OF THE SUPREME**
15 **COURT**

R-15-0014

MARICOPA COUNTY ATTORNEY'S
RESPONSE TO PETITION TO AMEND
CANON 2.3 IN RULE 81 OF THE ARIZONA
RULES OF THE SUPREME COURT

16 The Maricopa County Attorney hereby responds to the Petition to Amend Canon
17 2.3 in Rule 81, Arizona Rules of the Supreme Court, and asks this Court to deny the
18 petition. This petition, along with R-15-0020, illustrates why the Maricopa County
19 Attorney's Office opposed the earlier efforts to amend ER 8.4 to further delineate
20 discrete groups of fellow human beings with specific inclusion in the rules. This
21 petition, like R-15-0020, bootstraps the same problematic arguments and
22 justifications for adding "gender identity" as the State Bar Task Force heard in trying
23 to add "gender expression" to ER 8.4. These two petitions now rely on the presence
24 of the term "gender identity" in ER 8.4 as the basis for listing "gender identity" in the
25 Judicial Canons.
26
27
28

1 These petitions again highlight the problem of attempting to list specific
2 differences in our court rules prohibiting prejudice and discrimination. Such a task is
3 potentially never-ending and is always fraught with the danger that some difference
4 has been omitted. Despite the fact that the rule clearly states, “. . . including but not
5 limited to . . .” there will always be someone who feels their exclusion from the non-
6 inclusive list needs to be rectified. Rather than continuing to try and define how
7 specific groups of fellow human beings may be different to justify an official
8 admonition to overlook such differences – differences that require self-declarations
9 immune to objective verification (with one important caveat to the example of
10 transgendered individuals noted below) – the proposed language in each of these
11 petitions, along with current language, should be jettisoned in favor of the simple
12 straightforward declaration that:
13
14
15
16

17 “All persons shall be treated with respect reflecting the inherent dignity and
18 value shared and held in common by every human being.”
19

20 If the concern in these petitions in listing “gender identity” is to address specific
21 cases of transgendered individuals, then it would be far better and more accurate to
22 define “transgendered individuals” as those with a medical diagnosis of being
23 transgendered due to an incongruity between their chromosomal gender and their
24

25 ///

26 ///

1 physical gender, and use that specific term. A defined, diagnosed, objective term is
2 far preferable to "gender identity."
3

4 Respectfully submitted this 20th day of May, 2015.

5
6 WILLIAM G. MONTGOMERY
MARICOPA COUNTY ATTORNEY

7
8 By MARK FAULL
9 CHIEF DEPUTY



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

Dear Arizona Commission on Appellate Court Appointments:

I write to enthusiastically support William "Bill" Montgomery's application to become the next Associate Justice of the Arizona Supreme Court.

I have known Bill for many years and through our work together have seen his principled nature and dedication to the rule of law. He has a strong character, an exemplary record of service to our State and country, and is rightfully regarded as one of the most trusted voices in Arizona's criminal justice system.

Bill has a long and distinguished career in the public domain and has shown that he will defend the laws and Constitution, whether it is popular or not. His focus is always on doing the right thing. He is also a seasoned public administrator with organizational skills that promote efficiency and performance. It would be hard to imagine a more qualified candidate.

Thank you for your earnest consideration of Bill Montgomery. He is a proven champion of the law with a notable record of integrity and ability. I am confident that he would be a fine appointment and credit to Arizona's high court.

Respectfully,

Mark Brnovich

Moreno, Blanca

From: Thomas Liddy ✓
Sent: Saturday, July 20, 2019 12:57 PM
To: JNC - Judicial Nominating Commissions
Subject: Application of William Montgomery

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thomas P. Liddy

2019-07-20

1

July 20, 2019

Members of the Judicial Selection Committee:

Thank you for affording an opportunity for members of the public to contribute information for your consideration as you undertake your calling. I am compelled to write you after reading an article a few months ago that questioned the specific legal practice of William Montgomery, while serving as Maricopa County Attorney.

Most members of the public think of a County Attorney as the Chief Prosecutor for his or her jurisdiction, and this is most certainly true; however, the Maricopa County Attorney also leads a team of over forty civil lawyers, dozens of paralegals and other support staff.

It has been my privilege to serve as a senior attorney within the Civil Services Division, alongside many dedicated and talented attorneys, paralegals and support staff for over a decade, including during Mr. Montgomery's tenure.

I write to ensure that you are aware that Mr. Montgomery has been very active in the practice of law in the civil arena, in addition to his well known practice in the criminal courts. Within the Maricopa County Civil Services Division, we carry a caseload of well over a thousand civil lawsuits per year. Most are tort cases; however, several each year carry significant non-financial weight, often involving the civil liberties of Maricopa County residents, separations of power and limitations on the power of government.

Some may be surprised to learn that Mr. Montgomery has worked hand-in-hand with the most senior attorneys of the Civil Division to represent Maricopa County or its elected officials in complex litigation. He has done substantial, substantive work on eight different cases that I have worked on which we took up to the Arizona Court of Appeals, the Ninth Circuit or the U.S. Supreme Court. Of course, he has also worked on such cases that I did not.

He has rolled up his sleeves, digging deeply into the facts and the law. I have long ago lost count of the number of times I and two or three other civil attorneys have sat at the table with Mr. Montgomery analyzing, testing, competing over case law, statutes or nuances in the facts that might prove determinative. I am almost embarrassed to publicly declare that on at least two occasions our County Attorney found a case that we had not! He does his own legal research. Professionally, I have rarely encountered a lawyer who can command the details of so many complex cases at his or her fingertips simultaneously.

From my memory, perhaps the most consequential of his analyses are the complaints not filed and the opinions not appealed. His decisions were not always popular, but they were always well-reasoned and in the best, long-term interest of the people of Maricopa County, all the people – not just those who show up at the polling place to elect his clients.

At the end of the day, the facts and law do not always point in the direction that our elected officials wish they did. It is always Bill Montgomery who looks them in the eye and says “no.”

I thought you should know.

Respectfully,

Thomas P. Liddy

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